

Agenda Item	6.1
Report No	PLS-16-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 22 March 2022

Report Title: 21/04857/PIP: Aberdeen Standard Investments
Land Adjacent To Inshes Retail Park, Dell of Inshes, Inverness

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Mixed use development to include up to 4,700 sqm of class 1, 2 and 3 uses; public house / restaurant incorporating manager's residential accommodation; community allotments; all with associated engineering works, car parking, servicing, new access roads and landscaping (Renewal of Planning Permission in Principle 13/04334/PIP)

Ward: 19 – Inverness South

Development category: Major

Reason referred to Committee: Major Application / Manager's Discretion

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **REFUSE** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The development comprises a timeous renewal of Planning Permission in Principle 13/04334/PIP (planning appeal Scottish Government reference PPA-270-2152) for a retail led mixed-use extension to Inshes District Centre.
- 1.2 The appeal decision remains extant and sets a five year timescale to make an application or applications for the approval of matters specified in conditions. Whilst no such applications have been made to date, the timescale for doing so has recently been extended from 03 February 2022 to 31 March 2023 by the emergency provisions of the Covid-19 Regulations. Therefore, should this renewal application not be granted, there still remains a time limited opportunity for the appeal decision to be implemented and the development to proceed.
- 1.3 To allow for more time to bring forward detailed proposals, the application seeks to renew the planning permission in principle to allow the submission of matters specified in conditions within three years of the date of any forthcoming approval.
- 1.4 The development comprises:
 - 4,700 sqm gross floor area of Class 1 (non-food) retail, Class 2 (financial, professional and other services) and Class 3 (food and drink) uses presented as one large unit (3,252 sqm) and eight smaller units (over 1,441 sqm);
 - public house / restaurant (604sqm gross floor area) incorporating manager's residential accommodation;
 - 13 allotments, one community allotment and orchard, two allotment outbuildings; and
 - associated engineering works, car parking, servicing, new access roads and landscaping.
- 1.5 The proposed vehicular site access comprises a proposed new roundabout junction which extend beyond the western site boundary intersecting the existing public road which serves the existing retail park, crossing the Dell Burn and existing trees.
- 1.6 The application was not subject to any formal pre-application advice from the Planning Authority. Advice was however offered in terms of process.
- 1.7 The applicant has undertaken statutory pre-application consultation procedures, with two online public events to seek the views of the local community. These were held on 18 August 2021 and 02 September 2021. Owing to the Covid-19 restrictions and the request of the Planning Authority, the applicant issued event invitations to all properties and businesses within 500m of the site. The applicant also raised awareness of these events by notifying the host Community Council, contacting local ward members, MSP, MP and placing statutory newspaper adverts.
- 1.8 The following information was submitted in support of the application:
 - Planning Statement and Retail Assessment

- Design and Access Statement
- Statement of Community Involvement (Pre-Application Consultation Report)
- Transport Assessment
- Drainage and Flood Overview Report
- Ecology Report
- Tree Survey Report

1.9 The following information was submitted in support of the application during the course of the application's determination:

- Retail and Policy Issues Response, received 06 Jan 2022
- Review of Transportation Consultation Response, received 06 Jan 2022
- Flood Risk Response, received 06 Jan 2022

1.10 The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 requires development falling within Schedule 2 to be screened to determine if it constitutes 'EIA development'. EIA Screening was therefore undertaken upon receipt of the application. It is considered by the Planning Authority that the development falls within Part 10(b) under the definition of an 'Urban Development Project', with the applicable threshold in Column 2 of a development area over 0.5 hectares having been exceeded. Having screened the proposal against the selection criteria outlined in Schedule 3 (including cumulative impact, pollution, impact on the receiving environment), while possible, no likely significant effect on the receiving environment is anticipated. Therefore, the proposed development does not constitute 'EIA Development' and an Environmental Impact Assessment is not required.

1.11 Variations: None

2. SITE DESCRIPTION

2.1 The site comprises 4.8ha of predominantly undeveloped agricultural land located to the east of Inshes Retail Park, Inverness. The ground is generally level with a gentle fall from east to west. The site is bounded to the west an existing road which serves Inshes retail park. The Tesco petrol filling station is situated to the north west of the site and the northern boundary is defined by an existing access track which serves two existing houses, as well as an unoccupied property with this access previously having been used for embankment construction works to wider the B9006 road and A9 overbridge. To the east is residual agricultural land in close proximity to the A9. To the south lies Dell of Inshes farm buildings and the existing residential area of Inshes.

2.2 The proposed vehicular site access works would extend beyond the western site boundary intersecting the existing public road which serves the existing retail park and necessitates the crossing the Dell Burn which runs around the western and southern perimeter of the site. There are a number of field boundary trees, particularly adjacent to the burn, a number of which would be lost in order to form the principal western site access.

2.3 The site is not situated within or close to any natural or built heritage designation. The northern area of the site is subject to flood risk associated with the Dell Burn;

with this area having been previously flooded in 2014. No existing surface water drainage system is present for the existing road located to the west of the site, with surface water run off being into Dell Burn.

3. PLANNING HISTORY

- | | | | |
|-----|---|---|--|
| 3.1 | 22.08.2005 | 03/01232/OUTIN – Non-food retail warehouse and associated infrastructure | Withdrawn |
| 3.2 | 18.12.2012 | 12/04786/PAN - Extension to retail park to include class 1, 2 & 3 uses with public house/restaurant (and associated residential accommodation), residential care home and community allotments all with associated works, car parking, new access roads, landscaping and improvements to capacity of surrounding road network | Closed |
| 3.3 | 28.01.2016 | 13/04334/PIP - Mixed use development to include up to 4,700 sqm of class 1, 2 and 3 uses; public house/restaurant incorporating manager's residential accommodation; community allotments; all with associated engineering works, car parking, servicing, new access roads and landscaping | Planning Permission Granted (on Appeal. ref: PPA-270-2183, 3 Feb 2017) |
| 3.4 | 13.09.2019 | 19/01829/FUL - Formation of site access junction and associated engineering works to provide access into development site consented by 13/04334/PIP | Planning Permission Refused |
| 3.5 | 05.07.2021 | 21/03348/PAN - Renewal of Planning Permission in Principle 13/04334/PIP for a mixed use extension to Inshes District Centre to include up to 4,700 sqm of class 1, 2 and 3 uses; public house/restaurant incorporating manager's residential accommodation; community allotments; all with associated engineering works, car parking, servicing, new access roads and landscaping to extend the submission of matters specified in conditions by three years. | Closed |
| 3.6 | Appendix 2 of this report provides a copy of the appeal decision PPA-270-2183 which proposed for renewal. | | |

4. PUBLIC PARTICIPATION

- | | | |
|-----|------------------|-------------------|
| 4.1 | Advertised: | Unknown Neighbour |
| | Date Advertised: | 29.10.2021 |

Representation deadline: 12.11.2021

Timeous representations: 13 (8 objections, 4 neutral and 1 support)

Late representations: 1 (objection)

4.2 Material considerations raised in objections are summarised as follows:

- Adverse impact on vitality and viability of existing retail centres, particularly Inverness City Centre due to the inclusion of the larger non-food retail unit;
- Adverse impact on traffic and road safety, concerns with the proposed new pedestrian and vehicle access and traffic management;
- Design being orientated towards unsustainable modes of travel (i.e. private car) with lack of active travel provision;
- Impact on neighbouring residential amenity, including noise, air and light pollution, particularly associated with increased traffic and the potential for unrestricted 24/7 operating hours, deliveries, antisocial behaviour as well as from the public house, associated beer garden;
- Public safety concerns due to lack of natural surveillance for allotments, need for secure access and greater setback from A9 due to pollution;
- Loss of open space and adverse impact on wildlife;
- Insufficient landscape planting to screen the south / south west of site;
- Adverse impact on waste water infrastructure crossing the site;
- Lack of litter / waste management provision; and
- Lack of e-vehicle charging facilities.

4.3 Material considerations raised through representations of support for the development are summarised as follows:

- A restaurant offers greater choice within walking distance for local residents.

4.4 Non-material issues raised are summarised as follows:

- Undemocratic proposal given previous permission was granted on appeal; and
- Lack of public consultation.

4.5 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 **Inshes and Milton of Leys Community Council** do not object to the application but raise several concerns. It accepts that the proposed development has previously received planning permission in principle and understands the justification for applying for a renewal. It has concerns with the quality of the supporting information accompanying the application due to typographical errors and contradictory text that states that the development reduces the need to travel by car when an abundance of parking spaces is proposed. It raises traffic volume and safety concerns, seeks justification for the level of parking proposed and seeks the provision of an active travel plan. It finds the proposals at odds with the

Inverness City Centre Vision 2035 with this out-of-town development being contrary to the aims of regenerating the city centre. It also raises concerns with the quality of the submitted Drainage Impact Assessment.

5.2 **Access Officer** does not object to the application and has no further comment.

5.3 **Contaminated Land Officer** does not object to the application and has no further comment.

5.4 **Development Plans Team** does not support the proposal. It notes that almost five years have passed since the former appeal decision, and almost eight years since the initial planning application for the proposal was made. It is therefore important that the Council re-assesses the application on its merits in the current, significantly changed context with major changes that have occurred including: 1) the Covid-19 pandemic which has accelerated the decline of town and city centre retail, citing a recent appraisal identifying in the order of 17,000sqm of vacant retail space in Inverness City Centre; and 2) The Highland Council (THC) declaring a Climate and Ecological Emergency, meaning all development having a role to play in achieving net zero.

It considers that this large scale retail park expansion proposal is remote from the city centre, is dominated by private car use, and is of a scale and design that is inappropriate. It concludes that the proposal is contrary to the Inner Moray Firth Local Development Plan (IMFLDP) Policy 1 Promoting and Protecting the Town Centre, with the proposal may adversely impact the vitality and viability of Inverness City Centre. It considers that the indicative layout and design of this car based, big box retail led proposal is unsustainable, outdated and of poor quality, resulting in non-compliance with Highland-wide Local Development Plan (HwLDP) Policies: 28 Sustainable Design, 29 Design Quality and Placemaking; and 56 Travel, as well as the Inshes and Raigmore Development Brief (IRDB), and Scottish Government's Design Streets and Creating Places.

An update on the review of the IMFLDP is also provided, with the emerging Proposed Plan content anticipated to: 1) reallocate the site exclusively for housing use, with a total site capacity of 150 homes; 2) remove the Tier 2 town centre boundary for Inshes Retail Park; and 3) introduce new city and district-wide Placemaking Principles and site specific requirements. Pertinent consultative draft National Planning Framework (NPF4) policies are also highlighted, with the proposals failing to demonstrate compliance with a number of these, including policies on climate emergency, design, quality of place, local living, infrastructure first, sustainable transport, retail and town centre first assessment.

It also notes that should planning permission ultimately be forthcoming, safeguarded land must be secured to deliver Phase 2 of the Inshes Junction Improvements scheme (the Phase 2 works) as well as developer contributions to contribute towards its delivery, as well as the delivery of East Link, with onside provision of public transport infrastructure, green infrastructure and public art.

5.5 **Environmental Health Officer** does not object to the application. It seeks previous planning permission Conditions 1(k) and 17 to 21, which relate to amenity, be retained, with the exception of operational noise Condition 20 which is advised to be updated to reflect modern standards.

5.6 **Flood Risk Management Team** objects to the application. It requested an updated Flood Risk Assessment and Drainage Impact Assessment to be provided to address a number of matters, including:

- consideration of the October 2014 Dell Burn flood event to help gain confidence in any flood modelling previously undertaken;
- demonstration that no development or ground rising shall take place in areas at risk of flooding in the 1 in 200 year plus climate change event;
- assessment reflecting the proposed extent and design of the Dell Burn crossing;
- avoidance of reliance upon any informal levees;
- maintaining a buffer setback from the banks of the Dell Burn; and
- maintaining a greenfield runoff rate, with provision of further detailed calculations and assessment.

It is not satisfied that the findings of the 2013 Flood Risk Assessment can be relied upon, noting that updated guidance on climate change allowances has since published by SEPA in 2019.

5.7 **Forestry Officer** does not object to the application. A masterplan, tree survey report, tree schedule, tree protection plan and landscape plan has been provided. The tree survey identifies a number of 'U' category trees for removal, which is accepted given their poor condition. Good separation is shown in the indicative development proposals from tree belts, although concern is expressed regarding the significant loss of trees from the roundabout access arrangement. The landscaping provisions however specify a good number of extra-heavy standard trees and areas of planting which is advised to be secured by condition. Other recommended conditions include: tree separation; prior written approval for any tree felling / works; provision of a tree protection plan, arboricultural method statement and detailed landscaping plan with a maintenance programme; and the appointment of a landscape consultant to oversee implementation.

5.8 **Historic Environment Team** do not object to the application. It states that the site lies within an area of archaeology potential and that buried prehistoric features were identified during an evaluation of the area in 2013. A planning condition is advised requiring an archaeology watching brief.

5.9 **Transport Planning Team** objects to the application. It highlights that the planning permission for renewal did not prevent the developer from delivering access arrangements required by planning conditions on that permission at any time. It considers the developer could have come forward to deliver an access proposal independent of the Phase 2 works. A key aspect of the appeal decision is for the developer to demonstrate no net detriment to the traffic flows at the Inshes Roundabout. There is no reference to any work undertaken to determine if this is achievable, which brings into question the applicant's confidence in the suitability of their access proposals to support this development.

The access arrangement proposed also do not reflect either the layout in the IRDB, or the options recently consulted on for the Phase 2 works, or the layout referenced in the planning permission to be renewed. Concerns are also expressed that this is a car based development with a large car park, with direct

access of a congested local public road network.

The active travel measures to connect with existing development is limited and unlikely to result in modal shift. Improved active travel connections are required by former Condition 2 part b) of the planning permission to be renewed, however, this isn't reflected in the latest proposal. Amendments to the overall layout are advised which promotes buildings being the key frontage to the local public road, with parking and servicing to the rear of the site.

Concerns are also expressed regarding the intended single level filter trench treatment of surface water runoff from the volume, and mix of, traffic across the development before this water discharges to the Dell Burn. An amended drainage proposal is therefore sought.

Should planning permission ultimately be forthcoming, planning conditions are advised to: amend the access arrangements to either demonstrate either: i) no net detriment to the traffic flows at the Inshes Roundabout, or ii) adherence with the Phase 2 works; to safeguard land for such works; to implement the new access arrangements ahead of trading; secure a travel plan and monitoring and implementation thereof; provide details of car and bike parking, EV charging, servicing, and bus stop enhancements, and secure a Construction Traffic Management Plan. Developer contributions are also to be secured towards road and transport schemes in the Development Plan.

- 5.10 **Historic Environment Scotland** do not object to the application and has no further comment.
- 5.11 **NatureScot** do not object to the application. It advises that the proposal does not meet their criteria for consultation.
- 5.12 **Scottish Environment Protection Agency** objects to the application. It notes that the 2013 Flood Risk Assessment details an alternative access proposal in the form of a T-junction, rather than a roundabout, and requires to be updated. The further information provided by the applicant details that the climate change allowance has been since increased from 20% to 40% however it remains unclear if the full reach of the Dell Burn through the site has been remodelled with this increased allowance. It requests updated 1 in 200 year plus climate change flood levels and extents to be provided to define the functional floodplain and area not be avoided by any development, which in turn influences proposed finished floor levels of any buildings. It notes that the flood related drawing details provided have not been updated. Further details of the October 2014 flood event are also requested, including explanation why this occurred, the scale, frequency, source and mechanism of flooding. It also requires a planning condition for any watercourse crossing to be designed to convey the 1 in 200 year flow plus climate change with an appropriate freeboard, demonstrating no detrimental impact on flood risk. It highlights that any watercourse crossing to be constructed should not compromise the integrity of any existing levees in order to prevent an exacerbated flood risk elsewhere.
- 5.13 **Scottish Water** do not object to the application. There is current capacity at the Allanfean Waste Water Treatment Works to serve the development. It cannot however confirm capacity of Inverness Water Treatment Works without the

applicant undertaking a pre-development enquiry.

- 5.14 **Transport Scotland** do not object to the application. Connections are recommended to: secure a Travel Plan to reduce dependency on the private car, prohibit any drainage connections to the trunk road drainage system, and agree site lighting details.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

Highland Wide Local Development Plan 2012

- 6.1
- 7 - Inshes and Raigmore
 - 28 - Sustainable Design
 - 29 - Design Quality and Place-making
 - 30 - Physical Constraints
 - 31 - Developer Contributions
 - 34 - Settlement Development Areas
 - 40 - Retail Development
 - 51 - Trees and Development
 - 55 - Peat and Soils
 - 56 - Travel
 - 57 - Natural, Built and Cultural Heritage
 - 58 - Protected Species
 - 59 - Other Important Species
 - 60 - Other Importance Habitats
 - 61 - Landscape
 - 63 - Water Environment
 - 64 - Flood Risk
 - 65 - Waste Water Treatment
 - 66 - Surface Water Drainage
 - 72 - Pollution
 - 73 - Air Quality
 - 74 - Green Networks
 - 77 - Public Access

Inner Moray Firth Local Development Plan (2015)

- 6.2 The site is located within the Inner Moray Firth Local Development Plan (IMFLDP) Settlement Development Area boundary for Inverness. The site forms part of site allocation IN58 Land at Dell of Inshes which is identified for mixed use development for: shops and services (excluding convenience retail and bulky goods), food and drink, public house, allotments, open space and landscaping. In addition to the allocation the following policies would also be relevant:
- IMFLDP Policy 1 – Promoting and Protecting City and Town Centres
 - IMFLDP Policy 2 – Delivering Development
 - IMFLDP Policy 4 – Water and Waste Water within the Inverness to Nairn Growth Area

Inshes and Raigmore Development Brief (2015)

- 6.3 The site is located within the Inshes and Raigmore Development Brief (IRDB). The 'Dell of Inshes' site is identified as a development opportunity for the potential expansion of Inshes Retail Park providing that expansion helps deliver improvements in strategic road capacity. Para 2.20 establishes the key aims for this site to expand the range of services available to local communities and businesses, improve public transport links and make it easy and attractive to walk and cycle to Inshes District Centre.
- 6.4 Para 2.21 explains that the town centres first approach for any significant footfall generating uses *'must justify why locations within Inverness City Centre or the edge of the city centre are not suitable. Policy 1: Promoting and Protecting City and Town Centres of the Inner Moray Firth Proposed Local Development Plan will also be a material consideration. This policy does not support proposals that are likely to have an adverse effect on the vitality and viability of specified settlements, including Inverness City Centre.'* Paragraph 2.22 goes on to explain that a selection of unit sizes and mix of uses are envisaged for serving a neighbourhood and district catchment, and places a restriction on convenience retail floorspace (up to 250sqm). The brief provides scope for a range of land uses including Class 1 retail, Class 2 financial, professional or other services, Class 3 food and drink, including a public house, healthcare, nursing home / residential care, hotel and community uses which must include allotments, attractive open space for informal recreation, and high quality landscaping.
- 6.5 Para 2.23 of the brief looks for the development of the site to enhance the retail park's sense of identity, with an opportunity to create a welcoming place the prioritises social interaction over vehicle movement and parking. As series of design principles and design guidance are also outlined (refer to Figure 17). Developer requirements include: conformity with the brief's design guidelines, public art provision, environmental assessments, provision of a retail impact assessment with significant footfall generating uses having to justify why city centre or edge of city location is not suitable, new access from Culloden Road / land safeguard for Phase 2 works, active travel plan and safeguarding the green network.

Other Supplementary Guidance

- 6.6 The following Supplementary Guidance also forms a statutory part of the Development Plan and is pertinent to the determination of this application:
- Inverness City Centre Development Brief, Adopted Feb 2018
 - Developer Contributions (Nov 2018)
 - Flood Risk and Drainage Impact Assessment (Jan 2013)
 - Highland Historic Environment Strategy (Jan 2013)
 - Highland's Statutorily Protected Species (Mar 2013)
 - Highland Renewable Energy Strategy and Planning Guidelines (May 2006)
 - Managing Waste in New Developments (Mar 2013)
 - Physical Constraints (Mar 2013)
 - Standards for Archaeological Work (Mar 2012)
 - Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

Emerging Local Development Plan Policy and Non-Statutory Planning Guidance

- 7.1 The Highland-wide Local Development Plan is currently under review and is at Main Issues Report stage. It is anticipated the Proposed Plan will be published following publication of secondary legislation and National Planning Framework 4 (NPF4).
- 7.2 The Inner Moray Firth Local Development Plan is also currently under review with its Proposed Plan anticipated to be published for public consultation in March 2022. The emerging content of the Proposed Plan has however been ratified by the 18 November 2021 City of Inverness Area Committee, as well as by the 2 December 2021 Economy and Infrastructure Committee. Until both replacement plans reach Proposed Plan stage, they are not material considerations in the determination of this application.
- 7.3 In the event that the application is subject of an appeal or re-submission, the Council's Development Plans Team have confirmed the anticipated content of the IMFLDP Proposed Plan, with the land use allocations for Inverness having recently been agreed by Committees. The Proposed Plan is anticipated to:
- 1) Reallocate the site exclusively for housing use with a total site capacity of 150 homes;
 - 2) Remove the Tier 2 town centre boundary for Inshes Retail Park; and
 - 3) Introduce new city and district-wide Placemaking Principles and site specific requirements.
- 7.4 In addition, the Council has further advice on delivery of major developments in a number of documents. This includes Construction Environmental Management Process for Large Scale Projects (Aug 2010).

Scottish Planning Policy, Other National Guidance and Policy

- 7.5
- Scottish Planning Policy (The Scottish Government, 2014)
 - National Planning Framework 3 (NPF3) (The Scottish Government, 2014)
 - Consultative draft National Planning Framework 4 (NPF4) (The Scottish Government, 2021)
 - National Transport Strategy 2 (The Scottish Government, 2020) and its Delivery Programme (The Scottish Government, 2022)
 - Cycling by Design (Sustrans, 2021)
 - Designing Streets (The Scottish Government, 2010)
 - Creating Places (The Scottish Government, 2013)
 - PAN 1/2011 - Planning and Noise (Mar 2011)
 - PAN 60 – Planning for Natural Heritage (Jan 2008)
 - PAN 61 – Sustainable Drainage Systems (Jul 2001)
 - PAN 68 – Design Statements (Aug 2003)
 - PAN 75 – Planning for Transport (Aug 2005)
 - PAN 77 – Designing for Safer Places (Mar 2006)

Town Centre Health Check, Other Retail Impact Assessments and Market Evidence Post Brexit and During the Covid-19 Pandemic

- 7.6
- Inverness City Vision 2035, (THC Nov 2021)
 - Inverness City Centre Health Check (THC, Jul 2018)
 - Retail Impact, Sequential and Employment Land Assessments for Lidl Great Britain Ltd (Hargest Planning Ltd, Dec 2021, Supporting Documentation associated with retail and housing planning application 21/06011/PIP located at Sir Walter Scott Drive, Inshes, Inverness)
 - Goad Report – Inverness City Centre, (Charles Goad, Sept 2020)
 - Representation (objection) to retail planning application 21/04329/FUL located at Inverness Retail Park, (Phil Pritchett, Pritchett Planning Consultancy, submitted on behalf of Scoop-am whom manage the Inverness Eastgate Shopping Centre, 14 Oct 2021)
 - Response to representations on retail planning application 21/04329/FUL located at Inverness Retail Park, inclusive of Inverness City Centre – Sequential Assessment (Burnett Planning and Development Ltd, 22 Oct 2021)
 - Planning for Post-Covid Cities, (RTPI, Dec 2020)

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 and Other Planning Policy;
 - b) Retail Impact on Inverness City Centre;
 - c) Design and Layout (including Landscape and Visual Impact, Open Space and Landscaping);
 - d) Roads, Access and Parking;
 - e) Water Environment, Flood Risk and Drainage;
 - f) Natural Heritage (including protected species, ornithology and trees);
 - g) Amenity Impacts (including during construction); and
 - h) Other Material Considerations.

Development Plan and Other Planning Policy

- 8.4 The proposal relates to the renewal of the planning permission in principle granted on appeal in February 2017 for the creation of a mixed use extension to Inshes District Centre to include up to 4,700 sqm of Class 1, 2 and 3 uses; public

house/restaurant incorporating manager's residential accommodation; community allotments; all with associated engineering works, car parking, servicing, new access roads and landscaping. The principle of the development has therefore previously been accepted. The key matters for consideration are changes to policy and any other material considerations that have arisen since the initial grant of permission and therefore whether there continues to be policy support for the development.

- 8.5 There has been no change to the HwLDP since the previous grant of planning permission in 2017. The HwLDP is a 'hybrid plan' containing general planning policies, as well as land use allocations for strategic development sites. The plan allocates the application site for mixed use development under HwLDP Policy 7 Inshes and Raigmore. This policy instigated the preparation of the IRDB, the guiding principles of which identify the reconfiguration and potential expansion of Inshes Retail Park providing this expansion helps deliver improvements in strategic road capacity.
- 8.6 There has also not been any change to the adopted IMFLDP since the previous grant of planning permission. However, the plan is under review and IMFLDP2 Proposed Plan is due for publication in March 2022. Based on the adopted IMFLDP, the site is located adjacent to, but outwith, the defined Inshes Retail Park Commercial Centre. It is promoted for development forming allocation IN58 Land at Dell of Inshes, identified for mixed use development including shops and services (excluding convenience food retail and bulky goods), food and drink, public house, allotments, open space and landscaping.
- 8.7 The site also remains within the Inshes and Raigmore Development Brief with the site being identified as a development opportunity for the potential expansion of Inshes Retail Park providing that expansion helps deliver improvements in strategic road capacity. Para 2.20 establishes the key aims for this site to expand the range of services available to local communities and businesses, improve public transport links and make it easy and attractive to walk and cycle to Inshes District Centre.
- 8.8 Given the dual allocation within the Development Plan, and the site being promoted for development within the IRDB, the principle of the proposed land use is in general conformity with the adopted plan's land use allocations. This is however subject to the duration of any forthcoming permission respecting the need for a Development Plan led approach and any forthcoming permission not pre-judging the outcome of the ongoing review of the IMFLDP and content of the replacement plan which is imminent.
- 8.9 Pertinent to the determination of the application is also compliance with IMFLDP Policy 1 Promoting and Protecting City and Town Centres. It requires proposals that generate footfall (visits by the general public) to be directed towards available sites in Inverness City Centre, followed by commercial centres and neighbourhood centres, in preference of out of centre sites such as this proposal's location. Where the Council considers that a proposal may result in an adverse impact on the vitality and viability of any of these sequentially preferable centres, then the developer is required to produce a Retail Impact Assessment.

- 8.10 Similarly, SPP Town Centres First Policy outlined at SPP Para 68, directs significant footfall generating uses to be located in the city centre first, followed by edge of centre sites, followed by other commercial centres identified in the development plan and finally, only thereafter be located accessible out of centre sites. As circumstances and the availability of sequentially preferable sites can change over a relatively short period of time, compliance or otherwise with IMFLDP Policy 1 and SPP must therefore be informed through a robust up to date Retail Impact Assessment.
- 8.11 The emerging NPF4 Policy 25 Retail, although at consultative draft stage, proposes to enhance protection for town centres. This strengthens the current SPP Town Centres First principle by only supporting retail development which generate significant footfall within defined town centres, followed by within edge of centre or commercial centres only if they are explicitly supported in the development plan. Finally, for out of town locations, such as this proposal, are not to be supported. Conformity or otherwise with retail Development Plan policy, SPP and all other material considerations must therefore be subject to further detailed assessment.

Retail Impact on Inverness City Centre

- 8.12 There has also not been any change in the adopted Development Plan's retail policy since the previous decision, with the proposed amount of footfall generating uses (visits by the general public including use Classes 1, 2 and 3, public house / restaurant), having also not altered since the last grant of planning permission.
- 8.13 Although the site is allocated for development, the Development Plan does not prescribe the precise amount of retail or other footfall generating use floorspace that may be appropriate. IRDB Para 2.21 explains that the town centre first approach for any significant footfall generating uses:
- 'must justify why locations within Inverness City Centre or the edge of the city centre are not suitable. Policy 1: Promoting and Protecting City and Town Centres of the Inner Moray Firth Proposed Local Development Plan will also be a material consideration. This policy does not support proposals that are likely to have an adverse effect on the vitality and viability of specified settlements, including Inverness City Centre.'*
- 8.14 IRDB Para 2.22 goes on to explain that a selection of unit sizes and mix of uses are envisaged for serving a neighbourhood and district catchment and places a restriction on convenience food retail floorspace (up to 250sqm). The specified developer requirements include the provision of a retail impact assessment with significant footfall generating uses having to justify why city centre or edge of city location is not suitable.
- 8.15 It is also clear that the site is not located within the IMFLDP defined commercial centre boundary of Inshes Retail Park, emphasising the function of the site to serve a neighbourhood and district catchment.
- 8.16 As per IMFLDP Policy 1, the requirement to undertake a robust Retail Impact Assessment is also identified in HwLDP Policy 40 Retail which requires the

application of a sequential approach in order for such retail proposals to be supported.

- 8.17 In this regard, a significant amount of time has passed since the original planning application's supporting assessments / documentation was prepared ahead of the application's initial submission in 2013. At that time the applicant prepared a Supporting Planning Statement and Retail Assessment, (Nov 2013). Retail impact on the City Centre was not identified as a key determining factor in the Council's refusal. Instead, the focus of the initial refusal was on traffic impact.
- 8.18 The subsequent 2017 appeal decision did however consider the impact of the proposals on Inverness City Centre and found that in particular, the largest proposed retail unit with a Gross Floor Area (GFA) of 3,252sqm is capable of generating significant footfall. Conditions 10, 11 and 12 of the appeal decision were therefore imposed to: restrict any convenience retail; restrict occupancy of any unit larger than 1,000sqm until the details of the proposed retailer have been approved by the Planning Authority; and to restrict the combining of retail units to form a single trading operation without applying for this separately via a subsequent separate planning application. These measures collectively enable officers to request an updated Retail Impact Assessment to be undertaken ahead of occupation of the development.
- 8.19 However, it is considered that the approach set out within the appeal decision, particularly Condition 11, is not appropriate to be carried forward as it could be subject of a further successful application to remove these conditions. This is partially due to it being prejudicial for the Planning Authority to restrict any individually named store operator on the basis of predicted levels of footfall which would be challenging, if not impossible, to accurately ascertain and would not meet the test of enforceability. Instead, a more comprehensive approach would be to assess the impact of any given amount of proposed floorspace and determine compliance with HwLDP Policy 40 Retail and IMFLDP Policy 1 Protecting City and Town Centres at the planning application stage, or subsequent renewal of planning permission as is the case, based on an up to date Retail Impact Assessment. Through the assessment of this, consideration can then be given to any merit in restricting the overall floorspace, its format / subdivision, or what percentage and range of goods may be sold by way of planning condition.
- 8.20 Since the appeal decision there has been a material change in trading conditions and the health of city and town centres across the UK, in part due to matters arising from Brexit and the Covid-19 pandemic. This has accelerated significant changes in retail, including a shift to online retail and the subsequent demise of a number of larger retailers including, Arcadia Group Ltd and Debenhams, both of which had significant units within the Inverness City Centre's Eastgate Shopping Centre. Having reviewed the applicant's Planning Statement and Retail Assessment provided in support of the renewal application, the Planning Authority requested an updated and more robust Retail Impact Assessment to be undertaken, inclusive of:
- An up to date Town Centre Health Check for Inverness City Centre, covering the range of indicators identified in Scottish Planning Policy Annex

A – Town Centre Health Checks and Strategies (notably, inclusive of current vacancy rates and associated floorspace availability);

- A sequential site search covering all potential alternative buildings / development sites suitable of accommodating the proposed development located:
 - 1) within Inverness City Centre (informed by: the Inner Moray Firth Local Development Plan (IMFLDP)'s 'Town Centre' boundary and site allocations; the Inverness City Centre Development Brief, updated in February 2018; the town centre health check, and through site appraisal); and
 - 2) at edge of Inverness City Centre sites (informed by the IMFLDP allocations and other opportunity sites identified through site appraisal).

Details of all potential alternative buildings / development sites were requested, including a full site appraisal, including details of: their scale (ha), potential floorspace (sqm), any development or built heritage constraints, site photographs, connectivity and accessibility, details of their availability, ownership and evidence of these being actively marketed, planning permission status and timescale for becoming available; and
- Reference to any other previous retail impact assessments used, and provision of any comparable data used, to demonstrate existing or predicted turnover or patterns of trade diversion.

8.21 The applicant failed to provide this level of assessment, with their 06 January 2022 response to this request providing further analysis which is not considered to be comprehensive. Within this supporting information, the applicant provides limited details of the current retail market demand in Inverness, indicating a shortfall in affordable retail warehousing. It also notes the lack of evidence available to ascertain if Inverness City Centre has large amounts of unoccupied available floorspace. In terms of sequential assessment, it explains that retail warehousing has a specific locational and functional requirement, with large palette servicing, large open plan sales floor, with level car parking to the front. It concludes, without provision of any further site analysis that there are no sequentially preferable sites for this scale of retail warehousing proposed.

8.22 Para 3.9 of the applicant's Supporting Planning Statement and Retail Assessment acknowledges that *'there has been some change in city centre trading patterns with covered shopping centres continuing to struggle through the change in shopping habits and large format stores, such as Debenhams, House of Fraser and Arcadia'*. It however also states that other sectors such as restaurants and smaller fashion brands continue to thrive and expand. No sequential site selection analysis, details of city centre vacancy rates nor amount of available floorspace has however been provided by the applicant.

8.23 The applicant's assessment estimates that the development would have a total turnover of £18.8m, with their assessment Tables 5 and 6 presenting that most of the trade draw, 40%, would be diverted from Inverness Shopping Park, 22% Inshes District Centre and 20% from Inverness City Centre. Should the

development proceed, the applicant predicts around £3.77m of retail expenditure would be diverted away from Inverness City Centre, equating to a total turnover change of around 2.2%.

- 8.24 The applicant considers that Inverness City Centre does have retail warehousing, at Rose Street, which adds to the attraction of the city centre, but should these stores be vacated with operators relocating to the proposed Dell of Inshes site, the applicant deems these warehouse units to be peripheral and not in the heart of the city. The applicant therefore argues that their loss would not be significant, and that this is no basis for arriving at a different conclusion to that made in the 2017 appeal decision. The applicant also highlights that the Council may also be in the process of progressing compulsory purchase orders for these Rose Street retail warehousing units to facilitate transport improvements. In considering the potential future physical loss of these units, whilst no timescale or the precise amount of floorspace involved is set out by the applicant, it remains feasible and desirable that any affected retailers remain in the city centre, particularly given the prevailing vacancy rate at present. Should the Dell of Inshes proposal therefore prevail, this could encourage these retailers to vacate Inverness City Centre, particularly due to the attraction of lower out of centre rental values.
- 8.25 With regard to the other retail centres, the applicant's findings are that the largest impact would occur at Inverness Shopping Park, which is predicted to have a 5.3% reduction in turnover, shortly followed by Inshes District Centre itself, 4.5%. These predicted impacts to Inverness's Commercial Centres are however sought to be justified by the applicant on the basis of their strong performance, high turnover and the substantial planned growth of the eastern part of the city.
- 8.26 Whilst it is the applicant's responsibility to provide a robust Retail Impact Assessment to demonstrate compliance with the Development Plan, in the absence of this, further evidence of available sequentially preferable sites has been obtained through a recent Retail Impact Assessment undertaken for Lidl Great Britain Ltd (Hargest Planning Ltd (HPL), Dec 2021) associated with planning application 21/06011/PIP, located at Sir Walter Scott Drive, Inshes, Inverness.
- 8.27 This identifies that vacancy rates within Inverness City Centre have increased since the last Town Centre Health Check undertaken by the Council in July 2018, shortly after the appeal decision. At that time vacancy rates were reported to be around 7.6%. Since then, a Charles Goad survey of Inverness City Centre was undertaken in September 2020, predating the closure of Debenhams in the Eastgate shopping centre. This identified a vacancy rate of 14%, being only marginally higher than the UK average (14.26%), with around 13,000sqm GFA being vacant. By floor area, this equated to a slightly reduced vacancy rate of 10.91%, being slightly below the UK average (12.75%). Post Debenhams closure, using the Goad data, vacancies by floor space is reported to be at 18% with substantially increased amount of vacant floor space at 22,000sqm GFA. That said, the HPL survey in May 2021 identified a lower rate of the total number of vacancies being at around 11%.
- 8.28 As the total number of retail units recorded across all three surveys varies it remains difficult to draw precise comparisons, however, the trend of increased

vacancy rates within Inverness City Centre remains clear and may have more than doubled post the appeal decision. This is considered a significant change to retail trends in the City with town centre trading even more precarious.

- 8.29 Retailing formats can also evolve over time and it is important to consider if the proposed speculative development, with an unrestricted range of comparison goods, could reasonably be accommodated within Inverness City Centre. There are significant voids in the Eastgate Centre, including the Debenhams unit which can be split into almost any unit size. This store has a total of nearly 9,000sqm Gross Internal Area (GIA), split across three floors, with the first and second floors both having around 3,300sqm GIA each. The proposed largest retail unit at Dell of Inshes (3,252sqm GFA) would therefore be capable of being accommodated on either of these vacant floors. There is also scope for the residual smaller retail units to be accommodated within the City Centre and there is no clear need for these to be co-located within one premises. As this is a speculative development proposal, it remains uncertain what the future configuration or range of goods may be and what store layout and access is required.
- 8.30 The applicant's supporting information suggest that the application site would be marketed for national operators, including bulky goods retailing. This would be contrary to the current allocation and IRDB which restricts the sale of bulky goods. This is because such retailers serve a much larger regional market area with the Development Plan specifying that the allocated site is only intended to server a neighbourhood and district catchment.
- 8.31 The applicant has intimated demand for bulky goods retailers looking for large floorspace formats at out of centre retail parks where rents are cheaper. It is argued by the applicant that this demand is not being met at present and that the expansion of Inshes Retail Park would not be in direct competition with Inverness City Centre. Whist vacancy rates remain low across Inverness's commercial centres, the Planning Authority considers that any need to serve this potential deficiency in the market must be secondary and subservient to safeguarding the vitality and viability of Inverness City Centre.
- 8.32 As reported in the Inverness City Centre Vision 2035, city centres are undergoing significant pressure to reinvent themselves, with future demand for physical retail premises being uncertain. Operators, including bulky goods operators, may now consider occupying smaller central showroom premises with a reduced floor area, alongside more out of centre warehousing, particularly with more goods being sold online. Again, given the speculative nature of the proposal, the end occupier's locational and spatial requirements remain unclear. It has not been sufficiently demonstrated by the applicant, due to the lack of a submission of a robust Retail Impact Assessment, that the proposed development could not be easily occupied within the Eastgate shopping centre or elsewhere within Inverness City Centre, or indeed on an edge of city centre development opportunity site.
- 8.33 In applying SPP's Town Centres First Policy outlined at SPP Para 68, significant footfall generating uses such as this proposal requires to be located in the city centre first, followed by edge of centre sites, followed by other commercial centres identified in the development plan and finally, only thereafter be located

accessible out of centre sites. Whilst SPP advocates a flexible approach, given the scale of this development, which based on the applicant's predicted turnover represents a circa 21% increase in trade for Inshes Retail Park as a whole (£18.8m / £87.52m – refer to the applicant's assessment Table 6), the development proposal would draw trade away from the city centre.

- 8.34 The development would also be capable of attracting new retailers who may otherwise have opted to locate within Inverness City Centre, and equally may attract existing retailers to relocate from the city centre at a time when city centre vacancy rates have potentially doubled during the Covid-19 pandemic. Although this could be regarded to be short term, this remains uncertain and as a consequence of the pandemic, retail patterns may have changed indefinitely with online shopping having an ever increasing market share.
- 8.35 The development has therefore been found to be capable of causing a significant adverse impact on the vitality and viability of Inverness City Centre. As such, given the availability of sequentially preferable sites, the prevailing city centre vacancy rate, and the scale of the out of centre development proposed, the renewal of planning permission no longer complies with SPP's Town Centres First Policy, and in turn fails to be in accordance with HwLDP Policy 40 and IMFLDP Policy 1.
- 8.36 Whilst yet to be a material consideration at the point of determining this application, the existing mix use allocation, including an element of retail, is anticipated to change through the preparation of the next IMFLDP. The IMFLDP Proposed Plan's publication is imminent with its intended content having been ratified by both area and strategic committees. The application site is now expected to be allocated for housing use only, with the identification of the neighbouring commercial centre being removed. The emerging content of the IMFLDP Proposed Plan policies will also be a material consideration, including Policy 6 Town Centre First which continues to direct significant footfall development to Inverness City Centre with such proposals elsewhere being acceptable only in exceptional circumstances. There has been an opportunity for public engagement through the IMFLDP Main Issues Report stage, however, the settled view of the Council in the form of the Proposed Plan is yet to be published, thus not enabling the decision maker to attribute any weight to this emerging plan at this point in time.
- 8.37 Since the appeal decision, the consultative draft NPF4 has also been published. Whilst limited weight can be attributed to this document given that it is still undergoing consultation and parliamentary scrutiny, Action 14 acknowledges that the Covid-19 pandemic has generated severe impacts and longer term challenges for city centres. NPF4 Policy 25 Retail enhances protection for town centres. This strengthens the current SPP Town Centres First principle by only supporting retail development which generate significant footfall within defined town centres, followed by within edge of centre or commercial centres only if they are explicitly supported in the development plan. Finally, for out of town locations, such as this proposal, are not supported.
- 8.38 If unaltered, this national policy would therefore result in any proposal for significant footfall generating use situated on a currently allocated site in an out of

centre location, such as this renewal application, being contrary to this retail policy, which would form part of the statutory Development Plan. NPF4 Policy 25, part d), does however offer support for neighbourhood shopping in such out of centre locations where this serves the needs of 20 minute neighbourhoods. This policy however directs consideration be given to alleviating deficiencies in convenience food retail, which is not applicable to this location given that this neighbourhood is already well served in this regard. The location and scale of comparison retail provision proposed is therefore contrary to the emerging NPF4 Policy 25.

- 8.39 As previously set out, the potential introduction of the public house / restaurant with a gross floor area of 604 sqm, as well as Class 2 and Class 3 uses, should these materialise instead of Class 1, are collectively also capable of generating significant footfall should these come forward either within the larger unit, or any of the smaller commercial units. Given the suitability and availability of sequentially preferred sites within Inverness City Centre, or existing commercial centres, to accommodate these uses, these ancillary elements of the proposed development are also found to be contrary to IMFLDP Policy 1, with the combined scale of these being found to go beyond the needs of serving a 20 minute neighbourhood, particularly given the existing availability of other similar services at the adjacent Inshes Retail Park. As such these ancillary uses also are contrary to the emerging NPF4 Policy 26 Town Centre First Assessment, with this policy requiring such other uses to also undergo a town centres first assessment.
- 8.40 The proposed introduction of managers accommodation associated with the proposed public house, as well as the community allotments would not however be significant footfall generating uses and the principle of their inclusion could be supported.

Design and Layout (including Landscape and Visual Impact, Open Space and Landscaping)

- 8.41 The proposed indicative design and layout of the proposed development differs from that shown in the approved indicative masterplan, (Dwg No: 1023 (PL)002, Rev B, dated October 2013) as referenced in the appeal decision Appendix 1. The previously considered indicative layout detailed the provision of a T-junction arrangement with the current renewal detailing a new roundabout which extends across the public road beyond the western site boundary. This revised indicative layout is however similar, but not identical, to a version previously proposed at the former application's submission stage in 2013.
- 8.42 Whilst the indicative layout plan's access arrangements and drawing annotations differ, the positioning, size and scale of all proposed buildings remain unaltered as do the allotment plots. The renewal application's indicative masterplan proposal also details the provision of 376 car parking spaces, 4 more than the previously shown, albeit it is unclear exactly where these have been added with roughly the same amount of open space being shown across the site.
- 8.43 Condition 2, part a) of the appeal decision also required the vehicle access to be as indicated on Dwg No. SK004 I1: Indicative Phased Site Access Option (Amended) which again differs from that shown in the renewal application with

that drawing detailing a secondary northern road connection with Culloden Road, as part of the Phase 2 works envisaged at that time.

- 8.44 In summary, the proposed site access configuration has changed from that approved in the appeal decision and also does not accord with the Council's currently proposed Phase 2 Inshes Junction Improvements scheme. The implications of this are considered in the Roads, Access and Parking section below.
- 8.45 Should any renewal of planning permission be forthcoming the internal site's configuration would however remain a reserved matter, with the matters specified at appeal decision Condition 1 being carried forward, inclusive of, but not limited to:
- The detailed positioning and layout of all land uses;
 - Site levels;
 - Design and external appearance of buildings;
 - Landscaping and boundary treatment; and
 - Access and parking arrangement, including the precise number of car parking spaces.
- 8.46 As this is an application for the renewal of planning permission in principle, the acceptability or otherwise of the exact internal site layout and design of the proposal is a matter to be assessed at the matters specified in condition stage. That said, several design and layout concerns have been expressed by both Transport Planning and the Development Plan Team, with the illustrative masterplan's being considered incompatible with adopted Development Plan policy. In this regard, should it be agreed to renew the permission additional planning conditions will need to be added to ensure that:
- The principal buildings are situated closer to the western site boundary with their active frontages being orientated towards serving customers arriving on foot or by bike, with the majority of car parking situated to the side or rear of the development in order to help reduce private car dependency and to facilitate linked trips with the adjacent commercial centre;
 - The proposed community uses within the site, including allotments are attractive spaces which are secure by design with natural surveillance; and
 - The community uses within the site, including allotments and their associated access arrangements, are constructed and delivered by the developer in advance of occupation of, or trade commencing from, any other commercial buildings on site with this community land thereafter being transferred to the Council at nominal value.

Roads, Access and Parking

- 8.47 The applicant has provided a supporting Transport Assessment (TA). This outlines that the development's access arrangements, range of land uses and associated trip rates remain unaltered from those previously proposed when the last planning permission in principle application was determined. The TA considers the site to be highly accessible by active travel and by public transport, with the development being described as reducing the need to travel, particularly

by private car. It also explains that additional time is required in order for the site access arrangements to come forward in a coordinated manner with the ongoing design for the Council's Phase 2 works.

- 8.48 From reviewing the conditions of the appeal decision, it is apparent that the developer could have decided to implement the planning permission independently from the Phase 2 works with this being facilitated by the second part of Condition 5. This is on the basis that an independent access solution, to be proposed and delivered by the developer, demonstrating no net detriment to traffic flow at Inshes roundabout.
- 8.49 Whilst a separate detailed planning application 19/01829/FUL has been made since the appeal decision, seeking to deliver an alternative access solution, it was refused primarily due to the lack of inclusion of the access into the site via a lights controlled junction on Culloden Road, and that the application did not demonstrate no net detriment to Inshes roundabout. As it stands, any renewal of planning permission in principle would allow the developer to proceed with the development while awaiting the Council progressing the detailed design and delivery of the Phase 2 works, albeit that no trading could commence until 1 year has passed from the date which a contract has been let for construction of the Phase 2 works.
- 8.50 As the Phase 2 works also required land within the application site for delivery, Condition 6 of the appeal decision safeguards this area from any buildings, parking or servicing with this land to be made available. This land remains outwith the Council's control, with the appeal decision having been issued without the requirement for any legal agreement to be entered into. As such, should the Phase 2 works proceed, the Council may need to compulsorily purchase the land required to deliver these works.
- 8.51 Since the appeal decision, the timescale for the implementation of the Phase 2 works has been delayed with the scheme yet to reach detailed design stage and the drawdown of up-front capital funding for the work scheduled to be completed by 2023/24. The latest scheme design, which includes a new roundabout, is a different configuration from that shown in the renewal application. It may therefore require additional land to be safeguard within the site. Should any renewal of planning permission therefore be forthcoming, Condition 6 of the appeal decision would need to be amended to reflect all of the land required for the Phase 2 works being safeguarded from any buildings, parking or servicing.
- 8.52 The applicant's TA provides no evidence of any access solution being pursued which demonstrates any steps taken by the developer towards progressing the delivery of the access arrangements as per the requirements of the appeal decision, particularly no net detriment to traffic flows at Inshes roundabout. As such, Transport Planning has objected to the application.
- 8.53 The TA's assertion that this development will reduce the need to travel, enhance active travel opportunities and public transport connectivity is not one that is shared by officers. The proposal is a car-based development, with a large car park being envisaged with direct access taken from a congested road network. The active travel provisions are limited and unlikely to achieve any modal shift

away from single occupancy car trips. Connections by foot or by bike have also not been prioritised with access arrangements remaining largely unaltered, as per the illustrative outdated masterplan.

- 8.54 Although much of the Development Plan policy considerations have not changed since the appeal decision, there has been a major shift in national transport policy which is a significant material consideration that this application must also take account of.
- 8.55 In 2020 the Scottish Government published the National Transport Strategy 2 (NTS2) with this setting out the national approach to transport in terms of four key priorities: reducing inequalities; taking climate action; delivering inclusive economic growth, and improving health and wellbeing. Importantly NTS2 sets out a clear modal hierarchy for development, starting with people moving actively, and ending with private cars.
- 8.56 Large-scale warehouse retail is typically associated with car dependence. This proposal reinforces this point as demonstrated by the large amount of private car parking proposed in the information supporting the application. This would fail to deliver on the modal hierarchy in NTS2 and would also fail to meet its four stated outcomes and associated policies.
- 8.57 In January 2022 the NTS Delivery Plan was published setting out how the far reaching transformation needed to reduce the impacts of the current transport network will be delivered. Within this document actions centred on delivering on the NTS policies are described. The actions set out under 'Managing Demand' and 'Takes Climate Action' policies are of relevance to this application, where it is set out that "*[Scottish Government] will ... develop ... policy interventions to reduce car kilometres by 20% by 2030*" and "*... will work in partnership with local authorities to ... reallocate road space in favour of public transport and active travel, and manage parking provision...*" There is therefore a direct contrast between what NTS is seeking and what this application is proposing.
- 8.58 The Scottish Government launched its Consultation on the 20% Reduction in Car Km Route Map in January 2022. This document is important because the scale of the proposed development is likely to be beyond a 20 minute neighbourhood serving local community scale convenience. It is more akin to a regional destination and therefore contradicts a key aim of the Route Map; helping people to live well locally.
- 8.59 A revised version of Cycling by Design was also published in September 2021 and is the national guidance document for cycling infrastructure design on all roads, streets and paths in Scotland. It is therefore also another new material consideration in the determination of this application. The information submitted in support of the application indicates an inadequate level of provision for non-car modes. Despite the TA for the proposal suggesting that the proposal will "*enhance the opportunities for active and sustainable travel...*", the indicative masterplan shows a car dominated layout, with a large scale car park appearing to exceed maximum parking standards (SPP Annex B), and a network of roads with priority for cars, and limited provision for walking and wheeling or for cycling and cycle parking (e.g. uncovered Sheffield stands remote from all but one of the

retail units). Cycling by Design clearly states that *“Designs in new developments ... should meet or exceed the highest level of service”* which this proposal fails to deliver. A series of tables of standards for cycling infrastructure and facilities are set out in Cycling by Design, which do not appear to have been considered by the applicant, but are the standards set out that have not been met.

- 8.60 In assessing this application for renewal, it is the case that only the principle of the proposed range of land uses is being tested at this stage, as well the suitability of the site's access arrangements with the surrounding network. Although the envisaged function and scale of retail proposed is not considered to be limited to serving a neighbourhood or district of Inverness, the regional level of provision is not deemed to be detrimental to the functioning of the surrounding transportation network, providing that the proposal facilitates and contributes proportionately to the delivery of Inshes Corridor and East Link. This could be secured by both condition and legal agreement of any permission that may be granted.
- 8.61 The continued expansion of out of town retail warehousing is however out of step with NTS2, is at odds with the retail policies of the development plan and contrary to emerging NPF4 Policy 25 Retail. Whilst post the completion of the Phase 2 works, trips associated with this development may well be accommodated on an improved transportation network, the proposal will contribute to congestion on the road network and does not reduce the need to travel. It is therefore understandable that the Council is looking to change the land use allocation in the next IMFLDP Proposed Plan to supporting housing only at this site which comparably, based on the Trip Rate Information Computer System (TRICS) database, would have a considerably lower trip rate albeit with a differing travel pattern.
- 8.62 Given that IMFLDP Proposed Plan is yet to be published and that emerging NPF4 is still undergoing consultation, more weight in the decision making process must be attributed to the prevailing land use allocation and the transportation policies set out within the adopted Development Plan, as well as the reporters decision in previously granting planning permission. In this regard, the transportation provisions of the proposal, subject to securing new planning conditions and developer contributions enabling the delivery of the Phase 2 works, are found to be capable of being compatible with the Development Plan, with all other material considerations not outweighing this position at this moment in time.
- 8.63 Should the Council deliver the principal access arrangements into the site as part of the Phase 2 works, the Council would also maintain control over the delivery of enhanced active travel and road connections to and from the site, which any development at this site could then tie into. Overall, this proposal is therefore capable of compliance with HwLDP Policy 56, Travel, as well as the provisions set out within the IRDB, subject to the currently proposed site access arrangements being reconfigured to reflect and accommodate the Phase 2 works, with proportionate developer contributions being secured.
- 8.64 Significant concerns however remain relating to the indicative internal site layout arrangements shown in the application, necessitating such matters to be carefully assessed at the matters specified in conditions stage should permission be granted. In this regard, Transport Planning has advised that any renewed

permission must recognise the need for development contributions. Additional conditions would also be required to:

- Ensure that the new access arrangement to be fully constructed and being operational before any trading commencing from the development;
- Secure a Travel Plan to deter single occupancy private car trips, with provision for monitoring arrangements and the introduction of additional measures should its objectives / targets not be met;
- Secure a construction environmental management plan;
- Secure bus stop enhancements in line with appeal decision Condition 3 (including the provision of two bus stops with real time information); and
- Secure details of parking demonstrating a substantial reduction in the number of spaces illustrated in the indicative masterplan to date with this being informed through an up to date parking study and review of national policy, electric vehicle charging, cycle parking facilities and development servicing arrangements.

Water Environment, Flood Risk and Drainage

- 8.65 The applicant provided a drainage and flood overview report for the site, the content of which was deemed inadequate by both the Council's Flood Risk Management Team (FRM) and SEPA that both objected to the application, requesting an updated Flood Risk Assessment (FRA) and further drainage information to be provided.
- 8.66 The applicant has not provided this information but instead sought to demonstrate the suitability of relying upon the former 2013 FRA which demonstrated that the areas to be developed within the site are not subject to the 1 in 200 year flood event plus climate change. Since the 2013 FRA was carried out, FRM highlighted that the northern part of the site was subject to flooding from the Dell Burn in October 2014. Flooding in this location is reported by the applicant not however interfere with or preclude development but remains a consideration for the Council in progressing the detailed design for the Phase 2 works. SEPA and FRM have highlighted the need for further consideration of the Dell Burn Flood event to help gain confidence in any flood modelling previously undertaken, and understand the nature, cause, frequency and extent of flooding that has previously occurred within the site. It has also not been adequately demonstrated that no development or ground raising shall take place in areas at risk of flooding in the 1 in 200 year plus climate change event. Should this application be granted, a planning condition is recommended to ensure that any crossing of the Dell Burn proposed will be subject to an updated FRA, with the development maintaining a 6m setback from the burn.
- 8.67 The applicant has also not provided an updated Drainage Impact Assessment and highlighted that an outline drainage strategy was included with the applicant's submission. The applicant proposes that this strategy be revisited and upon finalisation of the site access arrangements, in consultation with the Council when designing the Phase 2 works. FRM has advised that a Drainage Impact Assessment (DIA) is required prior to determination of the application to adequately demonstrate that a greenfield runoff rate could be maintained, with this

being evidenced through the provision of further detailed calculations and assessment.

- 8.68 Transport Planning's consultation response also highlighted that the applicant's outline drainage proposals are unsuitable, detailing surface water run-off from the proposed new junction arrangement to be collected in a series of gullies and passed through a filter trench before discharging to the Dell Burn. This single level of treatment is not sufficient for the volume and mix of traffic anticipated for this development, does not meet the requirements of the CIRA SUDS Manual, and Transport Planning also object on that basis.
- 8.69 In assessing the principle of the proposed development of the site, the level of supporting information provided has not demonstrated that the proposal, including its associated built infrastructure, would be outwith the 1 in 200 year flood event plus climate change. It has also not been demonstrated that the development could be designed to be adequately drained or could sufficiently treat surface water run-off. As such, the development is contrary to HwLDP Policy 64 Flood Risk, HwLDP Policy 66 Surface Water Drainage, the Council's Flood Risk and Drainage Impact Assessment Supplementary Guidance and Paras 254 to 268 of Scottish Planning Policy. Should planning permission in principle be granted conditions would be needed to ensure that the finalised design and layout of the proposal is informed by an up to date FRM and Drainage Impact Assessment which takes account of, and does not adversely impact upon, the implementation of the Phase 2 works.
- 8.70 A representation on the application raised concerns with regard to the development's impact on existing waste water infrastructure that is reported to serve all holdings from Simpson's Garden Centre to the Dell Burn, including nine septic tanks. Having been surveyed in 2002 this sewage pipe is also reported to have been in poor condition and is in need of repair or replacement. Whilst this matter has been brought to the attention of the applicant, this hasn't been acknowledged within the application's further supporting information. Scottish Water has not objected or identified this infrastructure as its asset, and therefore is likely to be private and may be identifiable in the title deeds for the site. As it has not been proven to be public asset, any effect on this infrastructure falls to be a civil matter to be resolved between the affected parties and has no bearing on the outcome of this planning application.

Natural Heritage (including Protected Species, Ornithology and Trees)

- 8.71 HwLDP Policies 57 to 61 (Natural, Built and Cultural Heritage) require all development proposals to be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting in the context of the policy framework of heritage features.
- 8.72 An ecological walkover survey has recently been carried out to determine whether any protected species are present, and to assess any potential impacts from the development on protected species on and around the site.

- 8.73 The habitat value of the unworked agricultural fields themselves is limited, with the site and its surrounding tree belts and watercourse not having been found to be used by any protected species. There is however evidence of badger within 1km, however the foraging resource offered by the site is poor, reducing the likelihood of the species using the land. No evidence of any bats within the trees has been found, however, precautionary pre-felling inspections are still advised. An invasive species (giant hogweed) was also found on site, requiring eradication before start on site. There is potential for breeding birds across the site.
- 8.74 Although a representation also reported the presence of potential smooth newts within adjacent residential garden ground, no evidence of this has been provided. Given newts prefer still water and generally don't use running burns as their eggs can wash away, the existing watercourse may not be considered favourable. It however remains a possibility that newts will use the sides of slow moving streams, but no signs of this were reported in the ecology survey work undertaken to date. In any event, the proposed main site access works required to cross the burn are distant from any neighbouring garden ground and the rest of development is to be set back from the burn. As a precautionary measure, planning conditions could further secure an updated pre-start protected species survey to be undertaken, with an Ecological Clerk of Works to oversee the initial construction phase of the development.
- 8.75 HwLDP Policy 51 (Trees and Development) of the Highland wide Local Development Plan states that the Council will support development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. In this regard the applicant has provided a tree survey, schedule, protection plans, masterplan and landscape plan. Whilst the proposal will result in the loss of trees, there are a number that require to be removed due to their poor condition.
- 8.76 Notably, nine trees (tree ref. nos. running north to south 008, 009, 016, 017, 019, 020, 021, 022 and 025) located within the central carriageway reservation of the road beyond the western application site boundary are in need of urgent removal due to their condition, with the remaining mature trees within this treeline likely to require removal in the next decade due to the limited life expectancy of poplars. These trees remain under the control and ownership of the Council and the Forestry Officer is pursuing their removal separately to the determination of this application. Nevertheless, the Forestry Officer expressed concern with the extent of tree losses associated with the proposed roundabout access configuration, but does not object on the basis of the robustness of the proposed landscaping showing a good number of extra heavy standard trees to be planted.
- 8.77 Formation of the access will result in a degree of tree loss along the western site boundary. The principle of this is accepted given that this is an allocated site and that position has not changed since the appeal decision. Planning conditions could secure tree protection, particularly for trees to the south adjacent to residential properties, and the delivery of site landscaping to be overseen by a qualified landscape consultant, as per the advice of the Forestry Officer.

Amenity Impacts (including during construction)

- 8.78 Construction inevitably results in disturbance, noise, and dust which can adversely impact upon the amenity of nearby residents. Construction traffic travelling through residential areas also raises safety issues. It is therefore appropriate that should the permission be renewed, planning conditions require the applicant to provide a Construction Environmental Management Plan (CEMP), as well as a Construction Traffic Management Plan (CTMP). In that regard appeal decision Condition 1), reserved matters (L) and (W) should be retained.
- 8.79 A number of other reserved matters and conditions could also be carried forward in the interest of safeguarding neighbouring residential amenity both during construction and operation of the development. In reviewing these existing conditions, Environmental Health has advised that it has no objection to Condition 1) reserved matter k) and Conditions 17 to 20 being retained, however, the wording of operational noise Condition 20 is advised to be reworded to meet current best practice requirements.
- 8.80 A number of representations have also expressed amenity concerns in terms of noise, air and light pollution, particularly associated with increased traffic and the potential for unrestricted 24/7 operating hours / deliveries, antisocial behaviour as well as from the public house, associated beer garden. The retention of existing conditions would help to safeguard residential amenity. In addition, the following additional matters can be addressed through conditions:
- Restricting 24/7 trading operations, with operational hours for any Class 1 (retail), Class 2 (financial, professional and other services) and Class 3 (food and drink) premises to be restricted to between the hours of 0500 and 2400 (midnight), with these hours reflective of the restrictions imposed on all other food and drink premises at Inshes Retail Park;
 - Further restrict service delivery vehicles for the operation of the development from entering or exiting the site out with 0700hrs until 2200hrs Monday to Sunday, and restrict the parking or loading / unloading of any service vehicles out with these hours; and
 - Provide details of site operational waste / litter management, including bin storage, collection, factoring and security arrangements for the development.

Other Material Considerations

- 8.81 The site lies within an area of archaeological potential with buried prehistoric features having been identified during an evaluation of this area undertaken in 2013. A further archaeological watching brief is required, detailing further excavation and monitoring which could be secured via planning condition.
- 8.82 Representations objected to the loss of greenspace. Whilst the site comprises 'green' agricultural fields, this does not constitute 'greenspace' in policy terms, since it is farmland and not specifically reserved for recreation or amenity open space purposes. The existing areas of 'greenspace' in terms of recreation or amenity open spaces within Inverness are not reduced as a result of this

proposal, but are instead extended through the incorporation of allotments within this proposal.

8.83 There are no other material considerations.

Matters to be secured by Section 75 Agreement

8.84 The appeal decision does not make clear who is responsible for funding the transportation Phase 2 works; the infrastructure needed to facilitate this development. In this regard, appeal decision Para 44 referenced that £6.975m that had been allocated in the Council's capital programme with an estimated delivery date of March 2020, with this commitment considered by the reporter to overcome the concerns about congestion.

8.85 Since the appeal decision, the 18 November 2021 City of Inverness Committee agreed that the Project Design Unit should proceed with the statutory approvals, planning permission and detailed design for the Phase 2 works. This explained that the updated project budget of £6.695m was last reviewed and updated by Full Council on 7 January 2021 and Para 3.5 stated that the scheme budget relies on developer contributions with the Capital Programme detailing ongoing discussions with developers over land access and contributions. The updated timescale for expenditure is now detailed in the latest Capital Programme (Updated – November 2020) to be 2021/22 to 2023/24 (refer to 7 January 2021 Full Council meeting, rescheduled from 17 December 2020 – Item 16) which sets out that the Council has received £1.408m towards the Phase 2 works to date, with an outstanding cost of £5.287m. The income reported towards this scheme is understood to be attributable to developer contributions received to date.

8.86 The need for developer contributions are also identified for this site within the developer requirements section of the IRDB, with the IMFLDP Policy 2 Delivering Development requiring developers of allocated sites to provide necessary infrastructure to support their development. Similarly, the IMFLDP Delivery Programme, March 2021, identifies that developers are a key delivery partner for this scheme.

8.87 Since the appeal decision, the Highland Council's Developer Contributions Supplementary Guidance (DCSG) has also been updated, adopted November 2018. DCSG Para 1.17 explains that in the determination of all applications, including further applications for the renewal of planning permission, proposals will be reassessed to ascertain the impacts of the development and where necessary, developer contribution requirements will be re-established by applying the most up to date provisions of the development plan, including this guidance. This could result in new, increased or reduced developer contributions taking into account the most up to date information at the time of the planning application's determination.

8.88 DCSG Table 1.1 details that retail / business developments may trigger the need for transport, green infrastructure, water and waste and public art contributions. DCSG Section 5 explains the Council's approach to assessing the need for transport contributions, with financial contributions or direct provision being required to support development. It explains that all development is assessed in

terms of their impact on the transport network and that for larger developments this will be informed primarily on the findings of an agreed Transport Assessment, with developers being expected to meet the full cost of works required to facilitate development.

- 8.89 DCSG Para 5.7 to 5.11 explains that in certain locations a number of development sites contribute to the need for a strategic transport project or intervention that helps to mitigate the cumulative impact of development, such as identified in the recently prepared Inverness East Development Brief (IEDB), adopted June 2018, post the appeal decision, with the methodology for apportioning contributions being derived by reviewing existing and forecast traffic flows, relationship / proximity to interventions, estimated costs and sources of funding, catchments with development closer to hot spots having a greater impact and need for mitigation, scale of development and development viability.
- 8.90 As identified by Condition 5 of the appeal decision, there is a lack of capacity at Inshes Roundabout to serve this development and therefore, the development is reliant upon the construction of traffic light controlled junction on Culloden Road to enable this development, as well as serve the wider commercial centre. Should planning permission for this development ultimately be forthcoming, as the developer has opted not to deliver this infrastructure, with this instead being front funded by the Council's Phase 2 works, proportionate developer contributions towards this infrastructure, as well as the wider Inshes Corridor improvements and East Link are required to be secured by way of a legal agreement.
- 8.91 Although the development is not located within the IEDB boundary, the up to date methodology for calculating contributions specified in this adjacent adopted brief is equally applicable to this development site which requires part of this infrastructure to proceed and will generate trips from across Inverness, including on the proposed East Link road. In applying the contribution rates specified in the IEDB, a developer contribution of £1,992,497 (Class 1 Retail Floor Space 4,693sqm at £42,004 per 100sqm = £1,971,248 + Public House / Business Uses Floor Space 604sqm at £3,518 per 100sqm = £21,249) with this total being index linked from Q4, 2017 using the BCIS All-in TPI (refer to IEDB Para 156).
- 8.92 In terms of green infrastructure, the allotments, associated outbuildings, access, parking and associated services and infrastructure are to be designed and delivered by the developer ahead of the occupation of, or trading from, any other commercial building on site, and thereafter this community use land (0.55ha as measured from the indicative Site Layout Plan Dwg No. 10123 (PL)002) shall be transferred to the Council at a nominal value with this to be secured by legal agreement. This is required in order to ensure that the allotments remain a community land use, as envisaged in in the IEDB, with the developer not acquiring a commercial return, rental income or land sale, from this aspect of the proposal. In addition, the Council's Community Food Growing Co-ordinator has requested to be consulted on the finalised design and layout which could be secured by condition.
- 8.93 In summary, were planning permission in principle to be granted, in order to mitigate the impact of the development on infrastructure and services the following matters would require to be secured prior to any renewal of planning

permission in principle is issued:

- a) Inshes Corridor and East Link - £1,992,497, plus land safeguard for delivery;
- b) Green Infrastructure - to be delivered early on site secured by condition, with the allotments and associated community buildings and infrastructure once built out being transferred to THC at nominal value; and
- c) Public Art - to be delivered on site and secured by condition.

8.94 The applicant would have four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of any legal agreement or other appropriate mechanism to secure mitigation for the impacts of the development agreed by the Planning Service, to deliver to the Council a signed legal agreement. Should an agreement or other appropriate mechanism to secure the mitigation agreed by the Planning Service not be delivered within four months, the application may be refused under delegated powers for the following reason:

The proposed application has failed to conclude a legal agreement required to secure reasonable and proportionate contributions to secure mitigation for the impacts of the proposed development. As such the application is contrary to the provisions of HwLDP Policy 31 (Developer Contributions) and Policy 2 (Delivering Development) of the Inner Moray Firth Local Development Plan.

9. CONCLUSION

9.1 The application is for the renewal of planning permission in principle, seeking an extension of three years to submit matters specified in conditions. In this case, the terms of the original appeal decision granting planning permission in principle are complex, requiring a substantial amount of further information via suspensive planning conditions. This includes the provision of an up to date retail impact assessment to determine the suitability of the retail element of the proposal; the provision of a detailed design and implementation of a suitable access solution to serve the site; and the provision of an updated Flood Risk and Drainage Impact Assessments.

9.2 In considering the Development Plan position, it is also incumbent on the decision maker to consider any other material considerations that have emerged since the appeal decision. In this case, there have been several new and emerging publications and changes in circumstances that have occurred. Notably, since the appeal decision, Inverness City Centre is experiencing significantly higher vacancy rates as a result of Brexit, the Covid-19 pandemic and the general shopping habits of our communities. It is therefore considered that a more cautious approach must be taken, necessitating the reassessment of the likely retail impact of the development on the city centre.

9.3 In this regard, it has been found that, despite the applicant not providing an up to date robust Retail Impact Assessment, based on the information provided by the applicant and information available from a wide range of other sources, it is predicted that the development would divert around £3.77m of retail expenditure

away from Inverness City Centre, equating to a total turnover change of around 2.2%.

- 9.4 It is also the case that a sequential approach to site selection, as required by SPP's Town Centre's First Policy, has not been followed with this proposal failing at first tier of this process with there being ample vacant floorspace currently available to accommodate the development proposal within the city centre. As such, the renewal of planning permission in principle would be contrary to HwLDP Policy 40 Retail, IMFLDP Policy 1 Promoting and Protecting City and Town Centres and Scottish Planning Policy, with the development having a significantly adverse impact on the vitality and viability of Inverness City Centre.
- 9.5 Also of relevance is the suitability of the site access solution. The proposal differs from that shown in the appeal decision. Furthermore, the Council's proposals for the Phase 2 road improvement works for Inshes Corridor are now at a more advanced stage. In this regard, the development proposal, while considered to be capable of being accessed, remains reliant upon the delivery of the Phase 2 works unless an equivalent solution which demonstrates no net detriment to traffic flows on Inshes roundabout is delivered by the developer. Such an equivalent solution has not been provided by the applicant to date and Transport Planning has objected primarily on this basis. It is however considered by the Planning Authority that the proposal could be compliant with the currently adopted transportation policies of the Development Plan, subject to sufficient land being safeguarded for transportation infrastructure, proportionate developer contributions being secured towards its delivery and the design and layout of the development being subject to further assessment through subsequent reserved matters applications.
- 9.6 Finally, the applicant has sought to largely rely upon outdated flood risk and site drainage designs, with the level of supporting information no longer being considered sufficient by the Council and SEPA to establish the suitability of the proposed land use at the planning permission in principle stage. Part of the site was subject to a flood event since the applicant's original assessment work was undertaken and the applicant has been unable to demonstrate that the site is capable of being designed to accord with HwLDP Policy 64 Flood Risk and Policy 66 Surface Water Drainage.
- 9.7 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.
- 9.8 Although this report recommends the refusal of planning permission, should members or a Scottish Government appointed Reporter, be minded to grant permission, the report also outlines a range of matters that could be specified through planning conditions and by way of a legal agreement.

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

- 11.1 No further actions are required in the event of a refusal.
- 11.2 The following actions are only required in the event of a decision to Grant Planning Permission in Principle :

Prepare Planning Conditions	Yes (to be prepared in consultation with the chair of the South Planning Applications Committee)
Conclusion of Section 75	Yes
Restricted Time Limit for Implementation	Yes (all reserved matters to be submitted within 2 years of the decision, in order to align with the adoption of the Inner Moray Firth Local Development Plan 2)
Notification to Scottish Ministers	Yes (due to outstanding objection from SEPA on flood risk grounds)

- 11.3 It is recommended to **REFUSE** the application for the following reasons:
 1. The application is contrary to Policy 40 (Retail) of the Highland-wide Local Development Plan, and Policy 1 (Promoting and Protecting City and Town Centres) of the Inner Moray Firth Local Development Plan, and Scottish Planning Policy as the development would have a significantly adverse impact on the vitality and viability of Inverness City Centre. This is by virtue of the scale of this out of centre development, the prevailing Inverness City Centre vacancy rate and the availability of sequentially preferable sites.
 2. The application is contrary to Policy 64 (Flood Risk) and Policy 66 (Surface Water Drainage) of the Highland-wide Local Development Plan and Scottish Planning Policy as the development has not been demonstrated to be free from the 1 in 200 year flood risk event plus climate change, and that the development is capable of being adequately drained with the provision of sufficient surface water run off treatment. No up to date Flood Risk or Drainage Impact Assessments have been provided.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Signature: David Mudie
Designation: Area Planning Manager – South
Author: Peter Wheelan
Background Papers: Documents referred to in report and in case file.
Relevant Plans:

Plan 1 - Site Location	1023 (PL)001	12.10.21
Plan 2 - Site Layout Plan	1023 (PL)002	12.10.21
Plan 3 - Landscape Plan	1710 Ext L01 Rev B	12.10.21



Decision by R W Maslin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2152
- Site address: land adjacent to Inshes Retail Park, Dell of Inshes, Inverness IV2 5BG
- Appeal by the Scottish Widows Investment Partnership Property Trust against the decision by the Highland Council
- Application for planning permission in principle 13/04334/PIP dated 19 November 2013, refused by notice dated 28 January 2016
- The development proposed: mixed use extension to Inshes District Centre to include up to 4,700 sqm of class 1, 2 and 3 uses; public house/restaurant incorporating manager's residential accommodation; community allotments; all with associated engineering works, car parking, servicing, new access roads and landscaping
- Application drawings: see Appendix 1
- Date of inquiry session: 6 to 8 December 2016

Date of appeal decision: 3 February 2017

Decision and direction

I allow the appeal and grant planning permission in principle subject to the 43 conditions contained in Appendix 2.

Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) contains timescales and other limitations relevant to planning permission in principle. In relation to these, I hereby make the following direction:

The period of three years referred to in section 59(2)(a)(i) and (3) is substituted with a period of five years.

Attention is drawn to the four advisory notes contained in Appendix 3.

Procedural note

1. The inquiry session was convened to consider matters relating to vehicular traffic generated by the proposed development. Parties present to give evidence were the Appellant, The Highland Council, Inverness South Community Council and Tesco Stores Limited. The first and second days of the inquiry session were taken up by evidence from the Appellant's traffic witness.



2. At the start of the third day of the inquiry, I agreed to a request for an adjournment. When the inquiry resumed, I was informed that The Highland Council and Tesco Stores Limited had decided to withdraw their objections to the proposed development, subject to me imposing on any consent conditions that required:

- (1) access to accord with the adopted development brief;
- (2) no commencement of trading until either:
 - (a) details of the access at (1) above, demonstrating no net detriment to Inshes Roundabout, had been approved; or
 - (b) 12 months had elapsed from the date on which a contract had been let for construction of the Inshes Phase 2 works.

The foregoing was also subject to there being a direction that extended to five years the duration of the planning permission.

3. In response to this, I made it clear that I would be determining the appeal in the light of all the submissions before me. Concerns about traffic were raised in written representations. Representations also raised other matters. I would be taking all these matters into account before coming to a decision. I could note the consensus that had been reached, but I was not committing myself to a particular course of action at this stage of the appeal procedure.

4. Following my response, The Highland Council and Tesco Stores Limited confirmed that, nevertheless, they were no longer calling witnesses to give evidence. South Inverness Community Council stated that it objected to the proposed access arrangement envisaged by the other parties.

Reasoning

5. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of the Highland-wide Local Development Plan, adopted in April 2012, the Inner Moray Firth Local Development Plan, adopted in July 2015, and the Inshes and Raigmore Development Brief, adopted in February 2015.

6. There are three main issues in this appeal: the principle of retail and associated development on the appeal site; access and traffic; and flooding. Other issues requiring consideration are: noise; whether the proposed development should include a public house/restaurant; effects on existing residential properties; non-motorised access; and landscape setting.

The development plan

7. The development plan contains a wide range of policies that have a bearing on the proposed development. The following are particularly relevant.

8. In the Highland-wide Local Development Plan, Map 4 designates the Inshes and Raigmore area as a “mixed use allocation”. This allocation includes the existing Inshes Retail Park. It also includes most of the appeal site. The part of the appeal site that is not included is the north part of the site. According to the Appellant’s Illustrative Masterplan (drawing number 1023 (PL)002 version B), built development is envisaged only on that part of the appeal site which is within the mixed use allocation.

9. Policy 7 in the Highland-wide Local Development Plan says that the Council will produce a development framework for the Inshes and Raigmore area. The development framework is to be brought forward as supplementary guidance. The guiding principles for the supplementary guidance include:

- to promote, co-ordinate and best utilise improvements to strategic road capacity;
- to achieve no net detriment to the existing surface water drainage regime and attendant flood risk; and
- the reconfiguration and potential expansion of Inshes Retail Park provided that expansion helps deliver improvements in strategic road capacity.

10. In the Inner Moray Firth Local Development Plan, policy 2 says that development of the locations and uses specified in section 4 of the plan will be supported subject to provision of the necessary infrastructure, services and facilities. One of the locations in section 4 is site IN58: Land at Dell of Inshes. The site is shown on the South Inverness map. It consists of most the appeal site. As with the mixed use allocation, it does not include the north part of the appeal site.

11. The text relating to site IN58 is as follows.

Uses: Shops and services (excluding convenience retail and bulky goods), food and drink, public house, allotments, open space, landscaping.

Requirements: The Council will produce a masterplan / development brief which it will adopt as Supplementary Guidance. This will address: the need for completion of and/or land safeguards for, improvements to the trunk road and local road networks prior to development; land safeguard for drainage improvements / safeguards; minimising impact on views from the A9 by avoiding new building in the eastern part of the site; Flood Risk Assessment (may affect developable area); transport assessment.

12. The Inshes and Raigmore Development Brief includes the following.

1.3. This brief is being prepared in advance of the finalisation of Inshes Junction Improvements Phase 2 Despite this, it provides a sufficient level of detail for the Council to determine planning applications in the area.

2.1. This brief aims to address key challenges and opportunities in the area, principally: Integrated and sustainable expansion of Inshes Retail Park

13. Figure 7 in the Brief shows the appeal site, apart from the northern part of the site, as a development opportunity: “Dell of Inshes - Integrated and sustainable expansion of Inshes Retail Park”.

14. Figure 8 in the Brief shows walking/cycling improvement opportunities adjacent to the west side of the appeal site and within the south-west part of the appeal site. These relate to items 6, 7 and 9 in the Action Plan on pages 15 and 16 of the Brief.

15. Paragraphs 2.20 to 2.25 and figures 12 to 17 in the Brief relate specifically to the Dell of Inshes development opportunity:

“Development of the site must form an integrated expansion of the district centre” (paragraph 2.20).

“..... proposals for any uses which generate significant footfall must justify why locations within Inverness city centre or the edge of the city centre are not suitable. policy does not support proposals that are likely to have an adverse effect on the vitality and viability of Inverness City Centre” (paragraph 2.21).

“A combination of a number of the uses listed below is acceptable in principle on the site.” The listed uses are shops, services, healthcare facilities, nursing home/residential accommodation with care, food and drink or public house, hotel and community uses (paragraph 2.22).

“The Council expects the design of the development to be of exceptionally high quality The development must interact positively with surrounding uses, in particular the existing district centre Built form should take account of its location adjacent to a residential area to achieve a satisfactory transition between domestic and commercial scales The development must ensure safe, attractive walking and cycling links to neighbouring residences, shops and businesses” (paragraph 2.23).

“In determining any planning applications for development on the Dell of Inshes site the Council will expect the following issues to be reflected and incorporated in any development proposals:” (paragraph 2.25). There follows a list of key requirements. These include the following.

Proposals are to reflect the Design Guidelines which are shown in figure 17.

“Limit impact on amenity of nearby residential properties.”

“For significant footfall generating uses justification why city centre or edge of city location is not suitable.”

“Access must be taken from a new signal controlled junction on Culloden Road, in a format that reflects the design shown on the Inshes Junction Phase 2 Outline Proposals drawing or any subsequent iterations.”

“Remainder of land required for the provision of Inshes Junction Improvements Phase 2 is to be safeguarded from development”

“Land within a southern portion of the site may be required to accommodate a new-upgraded road link and potentially water course realignment”

“..... provision of new/improved walking and cycling routes”

The principle of retail development on the appeal site

16. As already noted, the Illustrative Masterplan that accompanied the application for planning permission shows no built development on the north part of the site. The remainder of the site generally coincides with the mixed use allocation shown on map 4 in the Highland-wide Local Development Plan, site IN58 in the Inner Moray Firth Local Development Plan and the Dell of Inshes site shown on figure 12 in the Inshes and Raigmore Development Brief.

17. I find that the proposed development, as described in the planning application, accords in principle with policy 7 of the Highland-wide Local Development Plan. It also accords in principle with the uses listed in IN58 of the Inner Moray Firth Local Development Plan, with one exception. The exception relates to convenience retail. Convenience retail is excluded from the uses listed in IN58. In the 1997 Use Classes Order, Class 1 is “shops” and this includes convenience shops. The Supporting Planning Statement of October 2013 (paragraph 1.4) indicates that the one large retail unit (3,252 square metres gross) shown on the Illustrative Masterplan might be occupied by a single food retailer.

18. A letter dated 12 February 2014 from the Appellant to The Highland Council says “planning permission is no longer sought for convenience retail use in the larger unit indicated on the indicative site layout plan. However, it is likely that convenience retailers will be interested in the smaller neighbourhood centre units and the applicant would therefore wish to retain the flexibility to let these units to convenience retailers. We would therefore suggest that a condition of any planning permission granted on the site should allow for convenience floorspace up to 465sqm net sales area.”

19. A procedure notice issued on my behalf on 7 September 2016 asked The Highland Council whether its intention is that there be a complete prohibition on convenience retailing within the proposed development. In reply, the Council says “small ‘neighbourhood’ food shops (butcher, baker etc) may well be considered acceptable within the appeal site, as these are likely to complement rather than adversely impact on the vitality and viability of the existing Inshes Retail Park. However, the impacts of such a proposal would first need to be assessed as part of a fresh planning application.”

20. I note that paragraph 2.22 of the Inshes and Raigmore Development Brief says that one of the uses that is acceptable in principle is “convenience/food retail limited to small scale units with a maximum floor area of 250sqm”. I find that the quantity of convenience retailing (net sales area) sought by the Appellant could be in conflict with this limitation. In addition, there would be conflict with the provisions of the Inner Moray Firth Local Development Plan regarding site IN58. I find that any permission for the proposed

development should be subject to a condition that excludes convenience retailing. This would not prevent submission of a further application for planning permission for convenience retailing with details of a specific proposal and an assessment of its effects in relation to development plan policy.

21. Representations submitted to the Council raise a number of matters. They question whether there is any demand for new retail space. There is concern that the proposed development could have an adverse effect on the city centre. Reference is made to policy 1 in the Inner Moray Firth Local Development Plan. Reference is made to a proposed extension to the city centre shopping centre, with concern that deliverability of this extension could be adversely affected by the Dell of Inshes proposal.

22. The Appellant, in paragraph 1.4 of the Grounds of Appeal Statement, describes recent developments at Inshes Retail Park and refers to “renewed demand in the Inshes area for small neighbourhood unit shops”.

23. So far as I am aware, planning policy does not require developers to demonstrate demand at Dell of Inshes. Nevertheless, it appears to me from what is said in the grounds of appeal and from concerns about the amount of traffic that might be attracted to the proposed development that there is a demand.

24. Regarding adverse effect on the city centre, I note that policy 1 in the Inner Moray Firth Local Development Plan says that the Council will not support any proposal that is likely to have an adverse effect on the vitality and viability of any of the centres that are listed in the policy. The list includes Inverness city centre. The Inner Moray Firth Local Development Plan also includes policy 2 and site IN58. As already noted (paragraphs 10 and 11 above), policy 2 and site allocation IN58 support a mix of uses at Dell of Inshes, including shops.

25. Possible effect of the proposed development on the city centre is not included in the Council’s reasons for refusal of planning permission. This suggests that the Council has no concern regarding any such effect. However, the Council’s Handling Report dated 25 January 2016 (section 5.1) says that “issues are raised with regard to the sequential assessment submitted in support of the proposal although some of the concern is addressed by removal of the food retail element of the development. it must be demonstrated through a sequential assessment that the city centre has no alternative available sites ...”.

26. A procedure notice issued on my behalf on 6 September 2016 asked The Highland Council about section 5.1 of the Handling Report. In reply, the Council says that it is “satisfied that, provided the shop units are of the type that can accommodate a range of different uses (paragraph 2.22 of the Inshes and Raigmore Development Brief) development at Dell of Inshes will complement the existing Inshes Retail Park and not have an adverse effect on the vitality and viability of any of the centres listed in Policy 1 of the adopted Inner Moray Firth Local Development Plan”.

27. I note that paragraph 2.21 and paragraph 2.25 of the Inshes and Raigmore Development Brief say that proposals at Dell of Inshes for any uses which generate significant footfall must justify why locations within Inverness city centre or the edge of the city centre are not suitable. The procedure notice of 6 September 2016 asked the Council

whether the proposed development would generate significant footfall. The Council's reply is that this question is difficult to answer because the proposed development is in principal and speculative with no identified end-users.

28. The Appellant's view, contained in an e-mail dated 5 October 2016, is that the proposed development is in keeping with the rest of the shopping centre and includes neighbourhood centre units which have been consented on a nearby site now occupied by Aldi. The remaining floorspace proposed is of the same scale and nature as that which is now being developed at the southern end of Inshes Retail Park.

29. Regarding the proposed "neighbourhood centre units", an appraisal of these is given in the Appellant's Supporting Planning Statement and Retail Assessment (paragraphs 3.18 and 3.19). The Appellant concludes that impact of these units is not significant in a city-wide sense.

30. I note what is said about similar development having been approved, but not carried out, elsewhere in the Inshes Retail Park. I give limited weight to this argument because the development plan at the time of the approval was different from the present development plan. The present proposed development must be assessed on its own merits and in the context of the current development plan.

31. From what is said in all the submissions, including third-party objections, I find that the eight smaller retail units envisaged in the proposed development are not likely to have an adverse effect on the vitality and viability of any of the centres, including Inverness city centre, listed in policy 1 of the Inner Moray Firth Local Development Plan.

32. Regarding the one large retail unit envisaged in the planning application, I note that its use for convenience shopping is no longer proposed. Subdivision of this unit is seen as likely (Supporting Planning Statement and Retail Assessment, paragraph 2.26). The Appellant contends that operators attracted to this kind of accommodation do not generate high footfalls.

33. I note that the large unit that is envisaged has a gross floorspace of 3,252 square metres. In my view this is clearly capable of accommodating a substantial retailer generating significant footfall. I find that if the unit were to be subdivided, the likelihood of generating significant footfall might be reduced but could not be ruled out.

34. To ensure compliance with policy 40 of the Highland-wide Local Development Plan, policy 1 of the Inner Moray Firth Local Development Plan and paragraphs 2.21 and 2.25 of the Inshes and Raigmore Development Brief, I therefore find that any permission for the proposed development should be subject to a condition that requires submission and approval of particulars of the kind of business or businesses that will initially occupy any larger units within the proposed development. This would give the Council opportunity to assess whether any such business is likely to generate significant footfall and, if necessary, to request submission of a retail impact assessment.

35. One of the representations made at the time of the planning application contended that the proposed smaller units could in time be reorganised to provide larger units. I find that

this could also apply to a subdivision of the large unit: an initial subdivision might at a later date be replaced by a single operator.

36. Amalgamation of units could mean that businesses generating no significant footfall might be replaced by a business that did have a significant footfall and that did not accord with paragraphs 2.21 and 2.25 of the Inshes and Raigmore Development Brief. Amalgamation would not necessarily infringe retail policy, but there should be opportunity to consider whether it is or is not acceptable in terms of development plan policy. This may be achieved by imposing on any permission a condition preventing amalgamation of units unless an application for amalgamation has been submitted and approved.

37. My overall conclusion is that the proposed development, subject to the three conditions mentioned above (paragraphs 20, 34 and 36), accords with the retail policies contained in the development plan.

Access and traffic

38. The planning application was submitted in November 2013. The “Illustrative Masterplan” submitted with the application showed access to the site by means of a new roundabout on the dual-carriageway road adjoining the west side of the site. The drawing was later amended. Instead of the roundabout, a T-junction was shown. At that time the Inner Moray Firth Local Development Plan and the Inshes and Raigmore Development Brief had not been adopted.

39. During The Highland Council’s consideration of the planning application, much attention was given to the effect that the proposed development would have on local traffic conditions. As stated in the Inshes and Raigmore Development Brief (paragraph 1.11), there are “recognised issues with traffic congestion mainly centred around the Inshes Roundabout but also Culloden Road, Old Perth Road and Sir Walter Scott Drive”. Much effort was expended on identifying mitigation measures so that traffic from the proposed development could be accommodated on the existing network.

40. I find that the planning context was radically altered in February 2015 with adoption of the Inshes and Raigmore Development Brief. The Brief, with regard to Dell of Inshes, says (paragraph 2.25) that the Council expects various key requirements to be incorporated in any development proposals. One of these is: “Access must be taken from a new signal controlled junction on Culloden Road, in a format that reflects the design shown on the Inshes Junction Phase 2 Outline Proposals drawing or any subsequent iterations.”

41. With an e-mail dated 28 January 2015 the Appellant submitted to The Highland Council drawing SK004 I1, showing how the site might be developed with access direct from a new signal-controlled junction on Culloden Road. A comparison with figure 17 and appendix B in the Inshes and Raigmore Development Brief suggests to me that what is shown on SK004 I1 may be said to reflect the design shown on the Inshes Junction Phase 2 Outline Proposals drawing. No incompatibility between SK004 I1 and the Phase 2 Outline Proposals has been drawn to my attention.

42. From the foregoing, I find that the Brief’s access requirements are met in principle by the access arrangement shown on drawing SK004 I1. So far as I am aware, these access

arrangements have not been subject to detailed scrutiny by the Council. The layout may well require refinement. If so, I have no reason to doubt that an acceptable version could be produced in due course.

43. Representations express concern that the proposed development would make worse existing congestion. Most of the representations were submitted prior to adoption of the Inshes and Raigmore Development Brief. The Brief “aims to address key challenges and opportunities in the area” (paragraph 2.1). These include the “delivery of increased capacity on the local transport network to relieve congestion and accommodate future development by the delivery of Inshes Junction Improvements Phase 2”.

44. The Highland Council's Capital Expenditure Monitoring for Major Projects report dated 26 April 2016 indicates that the Inshes Roundabout project (which I take to be the same as the Inshes Junction Phase 2 Outline Proposals) has been allocated £6.975 million and has an estimated completion date of March 2020. From this, I find that there is a commitment to works that will overcome the concerns about congestion.

45. In the light of all the foregoing, I now give consideration to the four reasons for refusal of planning permission.

46. Regarding the first reason, policy 28 of the Highland-wide Local Development Plan says that proposed developments will be assessed on the extent to which they are compatible with public service provision, of which one aspect is roads. I find that the proposed development will be compatible with the road network once the Inshes Junction Phase 2 Outline Proposals have been implemented.

47. Regarding the second reason for refusal, I find that policy 7 in the Highland-wide Local Development Plan is a commitment to produce, in the form of supplementary guidance, a development framework for the Inshes and Raigmore area. The bullet points in policy 7 are guiding principles for the development framework. Now that the development framework, in the form of the Inshes and Raigmore Development Brief, has been adopted, policy 7 is in effect superseded. Proposals for development at Dell of Inshes now require to be assessed in terms of the Inshes and Raigmore Development Brief.

48. Regarding the third reason for refusal, the Appellant has indicated a willingness to construct a signal-controlled junction on Culloden Road to give access to the proposed development. This accords with the Inshes Junction Phase 2 Outline Proposals contained in the Inshes and Raigmore Development Brief. It would help implement the Phase 2 Outline Proposals. The Phase 2 Outline Proposals are due to be completed by March 2020. I find no suggestion that the road network would not then be able to accommodate satisfactorily traffic from the proposed development.

49. Regarding the fourth reason for refusal, I find that there is an agreed acceptable solution in the form of the Inshes Junction Phase 2 Outline Proposals and access to the proposed development by means of a signal-controlled junction on Culloden Road. I also find that there is a programme for delivery, as shown by The Highland Council's Capital Expenditure Monitoring for Major Projects report dated 26 April 2016. In view of these circumstances, the proposal is not premature. Any possible mismatch between the date on

which the proposed development becomes operational and the date on which the Phase 2 Outline proposals are completed may be addressed by a planning permission condition.

50. My conclusion is that traffic and access matters can be addressed in accordance with the development plan. They are not matters that justify refusal of planning permission. Any permission that is granted should be subject to a condition requiring access to be taken from a signal-controlled junction on Culloden Road. In case of any mismatch between the date on which the proposed development commences trading and completion of the Inshes Junction Phase 2 Outline Proposals, the condition should include a requirement that there be no net detriment to traffic flow at Inshes roundabout.

Land safeguarding

51. The Inshes Junction Phase 2 Outline Proposals include enlargement of the roundabout that adjoins the south-west corner of the appeal site and construction of a new road between the roundabout the Culloden Road. Part of the land needed for these works is within the appeal site. One of the application drawings, drawing SK080A, shows the affected land. Another drawing, drawing SK084, shows how the proposed development might be laid out on that part of the site outwith the affected land.

52. I find that there is not necessarily any conflict between the proposed development and implementation of the Inshes Junction Phase 2 Outline Proposals. A condition of any planning permission could ensure that land required for the Phase 2 proposals is kept clear of built development.

A9/A96 Connections Study

53. Representations contend that permission for the proposed development should not be granted in advance of Transport Scotland completing its A9/A96 Connections Study. I note that Transport Scotland was consulted during the planning application process. It did not object to the proposed development. It asked that three conditions (relating to a travel plan, drainage and lighting) be imposed on any permission.

54. I find that there is no conflict between the proposed development and options under consideration in the A9/A96 Connections Study. There is no need to await the outcome of the Study.

Flooding

55. Flooding has occurred in the vicinity of the appeal site. Concern about flooding is raised in representations. Concerns were also expressed by The Highland Council's Flood Team and by the Scottish Environment Protection Agency. After receiving further information, the Scottish Environment Protection Agency asked that conditions be attached to any consent.

56. I am satisfied that the proposed development can be designed in such a way that it is not at unacceptable risk of flooding and that it has no adverse effect on flood risk outwith the site. Conditions can ensure that this is the case.

57. Representations include particular concern that the proposed development will cause surface-water runoff into neighbouring residential property. From my inspection and from the illustrative site levels shown on application drawings, I find that this concern is well-founded. It can be addressed by a condition that requires the development to be designed in such a way as to ensure that surface water does not drain into neighbouring property.

Noise

58. Representations express concern about noise. The Highland Council's Area Environmental Health Manager recommends that any permission be subject to conditions that control noise during construction and operation of the proposed development. I find that this adequately addresses concern about noise.

Public house/restaurant

59. Representations contend that there are existing public houses in walking distance of the appeal site, that there is no need for another public house/restaurant and that the proposed public house/restaurant would be too near to existing houses.

60. From my inspection, I find that there are not so many public house/restaurant premises in the locality that the addition of one more would lead to an over-concentration from a planning point of view. The question of licensing for sale of alcohol is a separate matter for consideration by the local licensing board.

61. The Illustrative Masterplan shows the public house/restaurant located in the southern part of the site. It is about 30 metres from the boundary of the nearest residential properties and separated from them by existing trees and a minor road. The minor road is due to be upgraded and to take on a distributor road function as part of the Inshes Junction Improvements Phase 2 proposals contained in the Inshes and Raigmore Development Brief. In all the circumstances, I find that the public house/restaurant element of the proposed development can be accommodated on the appeal site without unacceptable adverse effect on the amenity of existing houses.

Other effects on existing residential properties

62. There is concern regarding light pollution. I find that this may be addressed by imposing on any consent conditions controlling the design of external lighting and requiring consideration to be given to the design of internal access roads, car parking areas and service areas so that headlights on cars and service vehicles do not shine into the windows of adjoining houses.

63. There is concern about overlooking from parts of the car park that might be raised above existing ground level. I find that this may be addressed by imposing on any consent a condition requiring consideration to be given to minimising the extent to which adjoining residential properties would be overlooked by persons using the proposed development.

64. It is contended that existing properties that are close to the proposed development would suffer a loss of value. I find that, if the proposed development is acceptable in planning terms, any such loss is not a matter that justifies refusal of planning permission.

Non-motorised access

65. Representations include concern that there should be well-thought-out pedestrian and cycle routes. I note that the Dell of Inshes Design Guidelines in the Inshes and Raigmore Development Brief include new or enhanced walking and cycling routes. A condition of any permission could ensure that design of the proposed development takes account of this aspect of the Development Brief. This would adequately address the concern that has been raised.

Landscape setting

66. Representations include concern about the appearance of the proposed development as seen from the A9, and effects on the tree-lined avenue along the west side of the site. In the Inshes and Raigmore Development Brief, the Dell of Inshes Design Guidelines include a requirement that layout and massing be designed to minimise impact on key views from the A9. The Design Guidelines also show landscaping both within the appeal site and associated with the new road on the west side of the site. A condition of any consent could ensure that design of the proposed development takes account of these requirements. This would adequately address the concerns that have been raised.

Other matters

67. A number of other concerns are raised in representations. In my view none of these other concerns has an effect on whether planning permission for the proposed development should be granted.

Conclusion

68. In summary, my conclusions are: the proposed development accords in principle with the development plan; access to the proposed development may be designed in accordance with the requirements of the Inshes and Raigmore Development Brief and would thus overcome concerns about traffic congestion; other concerns may be adequately addressed by appropriate design and imposition of conditions; there is no material consideration that would justify refusal of planning permission; and planning permission should be granted subject to conditions.

Conditions

69. Conditions were suggested by The Highland Council. The Appellant commented on the conditions. Both parties made further comments in response to my requests for further information. Closing submissions for the inquiry session refer to conditions. I have considered all this information. I have also taken into account Circular 4/1998: The Use of Conditions in Planning Permissions.

70. Access arrangements have attracted most attention. I have addressed this in the above section headed Access and Traffic. In Appendix 2, conditions 1(e), 2, 3, 4 and 5 require details of access arrangements to be submitted, approved and implemented.

71. Other conditions reflect other findings that I have made.

72. The Appellant contends that, in the Council's original list of suggested conditions, condition 5 is not necessary. The Council says that the condition is needed to secure implementation of the approved parking. Reference to parking is included in condition 5 in Appendix 2. This secures implementation.

73. The Appellant contends that, in the Council's original list of conditions, condition 10 is neither precise nor relevant. The Council maintains that the condition is justified by the design guidelines in the Inshes and Raigmore Development Brief. I note that the condition relates to pedestrian links. Details of and provision of these links are required in terms of conditions 1(e), 2 and 5 in Appendix 2. For this reason, I do not include original condition 10 in Appendix 2.

74. It is the Appellant's view that, in the Council's original list of conditions, condition 26 is onerous and not necessary. This condition says that there shall be no roof plant or equipment located on the roof of any premises. In reply, the Council suggests a condition requiring that all plant be contained in the roof space of buildings.

75. In my experience, detailed building designs submitted for planning approval often do not show any external plant. The need for such plant tends to be identified at a later stage of the design process, when heating engineers and other specialists are engaged. It is also my experience that external plant may have a significantly detrimental effect on the appearance of a building. In the present case, particular care is required with regard to the appearance of the proposed buildings because the site is exposed to view from the A9 and because the Inshes and Raigmore Development Brief (paragraph 2.23) expects design of the development to be of exceptionally high quality.

76. For the above reasons, I find that, in designing the proposed buildings, attention must be given from the outset as to where plant and ducting for heating, air-handling, ventilation and so on are to be located. They must not be later 'add-ons'. I find that it is not necessary to prohibit roof plant, since it may be acceptable to have plant on the roof of a building if, for example, it is within an enclosure that is a satisfactory part of the overall building design. I find that what is necessary is a condition that requires approval of the appearance of any external plant and ducting. This will ensure that there is no doubt that such approval is required and that there will be no detraction from the high quality of design that is expected for the development as a whole.

77. In the Council's original list of conditions, condition 31 is "For the avoidance of doubt, no permission is hereby granted for signage." Display of advertisements (which includes signs) is controlled by the Control of Advertisements Regulations. There is therefore no need for proposed condition 31.

78. As well as providing a list of conditions, The Highland Council suggested that there be a planning obligation to secure contributions towards public transport improvements and public art. The Appellant commented that more information was needed about the public transport improvements and that public art could be addressed by a condition.

79. In response to the request for further information dated 6 October 2016, the Council explains that at present there is no bus service through Inshes Retail Park. Previous consents have secured bus stops. In the present case, contributions are sought to provide two bus shelters with real time information systems. The Council says that this accords with policy 31: Developer Contributions in the Highland-wide Local Development Plan.

80. I note that policy 56: Travel in the Highland-wide Local Development Plan says that development proposals that involve travel generation should, among other things, provide opportunity for modal shift from the private car and incorporate improvements to public transport services. Policy 31 refers to contributions to new or improved public services. From these considerations, I find justification for some contribution to facilities that could lead to provision of a bus service through an expanded Inshes Retail Park.

81. As is noted in policy 31, a contribution might be in cash or in kind. It appears to me that there may be opportunity to incorporate bus stops into access arrangements for the proposed development. Failing this, a contribution to the cost of providing bus stops within walking distance of the proposed development would be an acceptable alternative. Circular 3/2012: Planning Obligations and Good Neighbour Agreements (paragraph 15) says that planning conditions are generally preferable to a planning or legal obligation. I find that the provision of bus stops may be addressed by a condition rather than by an obligation. Accordingly, I include bus stop provision in the conditions in Appendix 2.

82. Regarding public art, I note that policy 29 in the Highland-wide Local Development Plan refers to public art as a means of creating a distinct sense of place and identity. The Public Art Strategy Supplementary Guidance adopted in March 2013 is also relevant. I see no reason why, in the present case, public art should not be required by conditions, and I include public art in the conditions in Appendix 2.

83. Matters raised in consultation responses merit being addressed in the conditions. The Council's suggested conditions cover most of these matters but not all of them. I have included omitted matters in the conditions in Appendix 2.

84. In Appendix 2, elements from a number of conditions in the Council's original list of conditions have been transferred into condition 1 to save repeating text and in the interests of clarity. I do not include in the conditions the phrase "to the satisfaction of the planning authority". This phrase lacks precision and its use is discouraged by Circular 4/1998.

Time limit for submission of details

85. At the inquiry session, I was asked to direct that the life any permission that I might grant be extended to five years.

86. The date on which trading from any part of the development may begin is related in part to the date on which a contract is let for construction of Inshes Junction Improvements Phase 2. Condition 5 in Appendix 2 explains this. While there is confidence that the Phase 2 works will proceed in good time, the possibility of some unforeseen delay cannot be excluded.

87. I find that there is a close relationship between the proposed development and the Inshes Junction Improvements Phase 2. The Phase 2 works will enable local roads to accommodate traffic from the proposed development. The works will also impinge on part of the application site. The design process for the Phase 2 works should ideally proceed in parallel with the design process for access to the proposed development. To allow for the time that this may take and for the possibility of delay, I find that the period for submission of details should be extended from the usual three years to five years. A direction to this effect therefore accompanies my decision on the appeal.

R W Maslin

Reporter

Appendix 1

Application Drawings

<i>Drawing number</i>	<i>Title</i>	<i>Date</i>
SK006 I2	Proposed Road Works Signalised Junction	12.03.14
SK006 I4	Proposed Road Works Signalised Junction	26.11.15
SK012 I1	Existing Layout - Inshes Roundabout	26.11.15
SK013 I1	Proposed Works - Inshes Roundabout	
SK080A	Land Available for Potential Future Highland Council Works	06.03.14
1023 (PL)001	Location Plan	October 2013
1023 (PL)002 B	Illustrative Masterplan	October 2013
1023 (PL)005 B	Illustrative Site Levels	October 2013
1023 (PL)006	Illustrative Site Sections Sheet 1 of 3	October 2013
1023 (PL)007	Illustrative Site Sections Sheet 2 of 3	October 2013
1023 (PL)008	Illustrative Site Sections Sheet 3 of 3	October 2013
1023 (PL)009 A	Proposed Footpaths, Cyclepaths and Pedestrian Links	October 2013
1023 (PL)011	Illustrative Site Levels Extract	06.03.14
1710 L01 B	Landscape Layout	15.10.13
1710 M01 B	Tree Management & Protection Plan	15.03.13

Appendix 2

Conditions

1. No development shall commence until all of the matters specified below have been submitted to and approved in writing by the Planning Authority:

(a) a detailed layout of the site of the proposed development (including site levels as existing and proposed) for each of the uses proposed;

(b) the design and external appearance of the proposed development, including a detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) and details of floor plans of all buildings;

- (c) a detailed scheme of landscaping for the whole site, including
 - (i) particulars of replacement planting of trees,
 - (ii) a programme for implementation,
 - (iii) stages requiring supervision,
 - (iv) arrangements for employment of a suitably-qualified landscape consultant,
 - (v) arrangements for submission of certificates of compliance and
 - (vi) a scheme for ongoing maintenance of all landscaped areas;
- (d) details of all boundary treatments and of all fences and walls proposed to be erected within the site and details of a programme for implementation;
- (e) details of access and parking arrangements;
- (f) details of the proposed water supply and drainage arrangements;
- (g) details of the allotments including details of allotment outbuildings, the construction and laying out of the allotments, boundary enclosures and arrangements for long-term management of the allotments;
- (h) details of the phasing of development, including at what stage of the development approved parking, service arrangements, landscaping and allotments will be completed;
- (i) details of the covered cycle stands to be provided on the site;
- (j) a green transport plan: the plan shall include
 - (i) proposals for reducing dependency on private car use,
 - (ii) measures to be implemented,
 - (iii) the system of management, monitoring, review and reporting and
 - (iv) particulars of the duration of each part of the plan;
- (k) details of all cooking odour extraction systems that are proposed to be installed within any part of the development;
- (l) a construction phase traffic management plan, including a routing plan for construction vehicles;

(m) details of external lighting to be used within the site and along its boundaries and accesses, including details of the location, type, angle of direction and wattage of each light: lights shall be positioned and angled so as to prevent any direct illumination, glare or light spillage outwith the site boundary;

(n) a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for investigation (note: a specification regarding these matters may be obtained from the Planning Authority);

(o) a drainage impact assessment: the assessment shall include identification of measures needed to ensure that after development discharge of surface water from the 1 in 200 years flood event will be no greater than the greenfield runoff rate;

(p) details of all surface water drainage provision within the application site: the details shall

(i) accord with the principles of Sustainable Urban Drainage Systems,

(ii) be designed to the standards outlined in Sewers for Scotland Second Edition or any superseding guidance prevailing at the time,

(iii) not involve any drainage connections to the trunk road drainage system,

(iv) be informed by the drainage impact assessment approved in terms of (o) above,

(v) incorporate use of permeable block paving with washed stone filled sub-base and

(vi) demonstrate that that surface water will not drain into any neighbouring property.

(q) a survey and report, covering the site and of any areas outwith the site that will be affected by construction of infrastructure, identifying

(i) any impact or potential impact on protected species and on the habitat of protected species,

(ii) measures to mitigate any such impacts, and

(iii) a programme for implementation of all mitigation measures that are identified;

(r) a tree protection plan and arboricultural method statement, including stages requiring supervision, particulars of how such supervision will be provided and arrangements for certification of work;

- (s) a copy of the Tree Management & Protection Plan drawing (drawing number 1710 M01 B) revised to take account of site layout details approved in terms of condition 1(a) above and matters approved in terms of condition 1(q) above and showing service runs and category C trees for retention: the revised plan shall accord with BS5837:2012 (Trees in Relation to Design, Demolition and Construction);
- (t) all protective tree barriers to be erected within the site: the barriers shall accord with BS5837:2012 (Trees in Relation to Design, Demolition and Construction);
- (u) a detailed tree management scheme for all trees and shrubs within the site excepting those trees and shrubs removal of which has been approved by the Planning Authority;
- (v) a scheme for the storage and recycling of refuse within the site;
- (w) a site-specific construction environmental management plan (details of matters to be included in the plan may be found on the website of the Scottish Environment Protection Agency);
- (x) a construction phase site waste management plan; and
- (y) details of public art provision in accordance with the Council's Public art Strategy Supplementary Guidance, adopted March 2013, including a timetable for implementation.

Reason: The application is in principle only.

2. The access arrangements mentioned in condition 1(e) shall accord with the access arrangements shown in the Inshes and Raigmore Development Brief adopted February 2015. In particular
 - (a) vehicular access shall be as indicated generally on drawing SK004 I1: Indicative Phased Site Access Option (Amended); and
 - (b) pedestrian links shall be provided between the development and existing retail units in the Inshes Retail Park and a pedestrian link shall be provided between the development and the houses to the south-west at Woodgrove Crescent.
3. Either
 - the access arrangements mentioned in condition 1(e) shall incorporate two bus stops with shelters and real time information systems
 - or
 - the developer shall enter into an agreement with the Planning Authority whereby a contribution is made to the cost of providing two bus stops with shelters and real time information systems at locations within walking distance of the proposed development.

4. All watercourse crossings included in the access arrangements mentioned in condition 1(e) shall be:

(a) designed in accordance with good practice guidelines, including ensuring that they are designed so as to convey freely the 1 in 200 years design flow; and

(b) designed as clear span bridges that do not impact on the watercourse channel.

5. There shall be no trading from any part of the development hereby approved until either:

the access and parking arrangements approved in terms of condition 1(e) have been constructed and brought into use and at least one year has passed from the date on which a contract has been let for construction of Inshes Junction Improvements Phase 2; or

the access and parking arrangements submitted for approval in terms of condition 1(e) demonstrate that there will be no net detriment to traffic flow at Inshes roundabout and these access and parking arrangements have been approved by the Planning Authority and they have been constructed and brought into use

and either the bus stops approved in terms of conditions 1(e) and 3 have been provided or the bus stops contribution agreement has been concluded.

Reasons for conditions 2, 3, 4 and 5: To ensure that (a) access arrangements accord with requirements of the Inshes and Raigmore Development Brief; (b) development is served by a suitable vehicle access; (c) traffic from the development will not cause or add to congestion on nearby roads; (d) connectivity between the development, the existing retail park and the neighbouring residential area encourages pedestrian movement; (e) the development is served by adequate parking; (f) use of public transport is encouraged rather than use of private cars; and (g) watercourse crossings do not exacerbate flood risk.

6. No buildings, parking, service areas and the like shall be located within the area hatched red on drawing SK080A: Land Available for Potential Future Highland Council Work. The layout required in terms of condition 1(a) shall be designed accordingly.

Reason: To ensure that the development does not hinder provision of Inshes Junction Improvements Phase 2 as shown in the Inshes and Raigmore Development Brief.

7. The layout, building design and landscaping required in terms of (a), (b) and (c) of condition 1 shall minimise impact on key views from the A9. The landscaping shall accord with the two “visually attractive landscaping” notations shown in figure 17 in the Inshes and Raigmore Development Brief.

Reason: To ensure that design of the proposed development achieves the high quality to which reference is made in paragraph 2.23 of the Inshes and Raigmore Development Brief.

8. The development for which planning permission is hereby granted shall be implemented in accordance with the phasing approved in terms of condition 1(h).

Reason: To ensure that all essential components of the development are provided at the appropriate stages of the implementation process.

9. For the avoidance of doubt, planning permission is hereby granted for no more than 4,700 square metres of Class 1, Class 2 and Class 3 uses, along with a public house/restaurant, allotments and associated infrastructure.

Reason: It has not been demonstrated that a greater amount of Classes 1, 2 and 3 development would accord with retail policy contained in the development plan.

10. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and any subsequent amendments thereof, none of the Class 1 premises for which planning permission is hereby granted shall be used for the retail sale of food or other convenience goods.

Reason: To accord with the Inner Moray Firth Local Development Plan, in which uses for site IN58 exclude convenience retail.

11. No retail unit that has a gross floor area exceeding 1,000 square metres shall be occupied until details of the occupier and of the occupier's proposed retail offer have been submitted to and approved by the Planning Authority.

Reason: To ensure compliance with policy 40 of the Highland-wide Local Development Plan, policy 1 of the Inner Moray Firth Local Development Plan and paragraphs 2.21 and 2.25 of the Inshes and Raigmore Development Brief by enabling the Planning Authority to assess whether the first occupier of any larger unit is likely to generate significant footfall and, if necessary, to request submission of a retail impact assessment.

12. No retail unit approved in terms of condition 1(b) shall be combined with any other unit to form a single trading operation unless an application for such combination has been submitted to and approved in writing by the Planning Authority.

Reason: Combination of units could mean that businesses generating no significant footfall might be replaced by a business that did have a significant footfall and that did not accord with paragraphs 2.21 and 2.25 of the Inshes and Raigmore Development Brief.

13. The covered cycle stands approved in terms of condition 1(i) shall be installed prior to occupation of any of the premises for which planning permission is hereby granted.

Reason: To secure appropriate facilities for cyclists.

14. The green transport plan shall be implemented in accordance with the details approved in terms of condition 1(j).

Reason: To reduce car-borne customers and in accordance with national policy.

15. The allotments approved in terms of condition 1(g) shall be laid out for community use prior to occupation of any of the premises for which planning permission is hereby granted.

Reason: In order to ensure provision of allotments in accordance the Inner Moray Firth Local Development Plan and the Inshes and Raigmore Development Brief.

16. No development shall take place on site until approval from Scottish Water has been secured and thereafter submitted in writing to the Planning Authority confirming that connections to the public water and drainage systems have been approved. Prior to occupation of any of the premises for which planning permission is hereby granted the approved connections shall be made.

Reason: In accordance with advice from Scottish Water regarding the current capacity of the public water system and in the interests of public health.

17. Construction work from which noise is audible at the boundary of the site shall not take place outwith the hours from 8:00 am to 6:00 pm on Mondays to Fridays and outwith the hours from 8:00 am to 1:00 pm on Saturdays. No construction work from which noise is audible at the boundary of the site shall take place at any time on Sundays or on public holidays.

18. Delivery of construction materials to the site shall not be made outwith the hours from 8:00 am to 6:00 pm on Mondays to Fridays, and outwith the hours from 8:00 am to 1:00 pm on Saturdays. No delivery of construction materials to the site shall be made at any time on Sundays or on public holidays.

19. Delivery by service vehicles to the retail units and public house shall take place only between the hours of 7:00 am and 10:00 pm.

20. All plant, machinery and equipment associated with ventilation, air conditioning, heating and refrigeration services or similar including fans, ducting, and external openings shall be installed, maintained and operated so that any associated operating noise does not exceed Noise Rating 25 when measured on the boundary of any noise sensitive premises. In 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 Class 7 (Hotels & Hostels), Class 8 (Residential Institutions) or Class 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended or (b) is a flat or a static caravan.

Reason for conditions 17, 18, 19 and 20: To minimise the risk of noise nuisance given the close proximity of existing residential development.

21. No cooking odour extraction system shall be installed within any part of the development unless it accords with details approved in terms of condition 1(k). All cooking odour extraction systems that are installed shall be operated and maintained so that odours are not detectable within neighbouring premises.

Reason: In the interest of protecting public amenity.

22. The construction phase traffic management plan approved in terms of condition 1(l) shall be implemented prior to development commencing and shall remain in operation until the development is complete.

Reason: In the interest of public safety.

23. No external lighting shall be installed or used on the site except in accordance with details approved in terms of condition 1(m).

Reason: To ensure that external lighting is not detrimental to the amenity of neighbouring properties, does not distract or dazzle road users and does not cause unnecessary light pollution.

24. Internal access roads, car parking areas and service areas shall be designed so that headlights on cars and service vehicles do not shine into the windows of adjoining houses.

Reason: So that glare from headlights does not damage the amenity of adjoining houses.

25. The layout and landscaping shall be designed so as to prevent or minimise users of the development being able to overlook adjacent residential properties.

Reason: To protect the privacy and amenity of adjacent residential properties.

26. The programme of work for the evaluation, preservation and recording of any archaeological and historic features approved in terms of condition 1(n) shall be implemented in accordance with the approved timetable for investigation.

Reason: To identify, protect and record historic features within the site.

27. All surface water drainage provision shall accord with the details approved in terms of condition 1(p) and shall be completed and brought into use prior to the first occupation of any of the development.

Reason: In the interests of public health.

28. A buffer strip six metres wide as measured from the top of the bank of the Dell Burn shall be kept free from development and the layout required in terms of condition 1(a) shall be designed accordingly.

Reason: To allow access for inspection and maintenance of the watercourse, to maintain the integrity of the banks and to avoid disturbance to the levees.

29. At all times during the construction period of the development all building materials, plant and equipment associated with construction of the development shall be stored within the boundaries of the application site.

Reason: To ensure that there are no obstructions to the public highway or other areas used by the public.

30. At no time shall any building materials, plant or equipment associated with construction of the development be stored on ground that is within any root protection area shown on the Tree Management & Protection Plan drawing (drawing number 1710 M01 B) unless such area relates to a tree the removal of which has been approved by the Planning Authority. For the avoidance of doubt, this permission in principle does not approve removal of any of the trees shown on drawing number 1710 M01 B.

Reason: To ensure that trees within the site are retained and not damaged by development, except for those trees removal of which has been approved by the Planning Authority. Drawing number 1710 M01 B was prepared prior to it being envisaged that access to the proposed development would be from a junction on Culloden Road and removal of trees should be reviewed accordingly.

31. With regard to impact on protected species, the mitigation measures approved in terms of condition 1(q) shall be implemented in accordance with the programme for mitigation approved in terms of condition 1(q).

Reason: To ensure that protected species are properly safeguarded.

32. With effect from the date of this permission, no trees and no shrubs within the site shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority.

33. The tree protection plan and arboricultural method statement approved in terms of condition 1(r) shall be implemented throughout the period from commencement to completion of development.

34. All of the protective tree barriers approved in terms of condition 1(t) shall be erected prior to the beginning of any development work on the site, including excavation and groundwork. The barriers shall remain in place throughout the construction period. The barriers must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

35. The tree management scheme approved in terms of condition 1(v) shall be implemented throughout the period during which the development is being constructed and for such further period as may be approved as part of the scheme.

Reason for conditions 32 to 35: To ensure the protection and continued existence of all trees and shrubs that merit retention.

36. The details of the design and external appearance of the proposed development that are required in terms of condition 1(b) shall, with respect to the external appearance of buildings, include details of all plant and ducting for heating, air-handling, ventilation, or similar purposes that are proposed to be installed on roofs or external walls.

37. No plant or ducting for heating, air-handling, ventilation, or similar purposes shall be installed on the roof or external wall of any building within the site unless details have been submitted to and approved in writing by the Planning Authority in terms of condition 1(b).

Reason for conditions 36 and 37: Particular care is required with regard to the appearance of the proposed buildings because the site is exposed to view from the A9 and because the Inshes and Raigmore Development Brief (paragraph 2.23) expects design of the development to be of exceptionally high quality.

38. A scheme of landscaping for the whole site shall be carried out in accordance with all of the details approved in terms of condition 1(c). Thereafter, the scheme shall be maintained in accordance with the approved scheme for ongoing maintenance.

Reason: To ensure that the landscaping element of the development is carried out and properly maintained.

39. The scheme for the storage and recycling of refuse approved in terms of condition 1(v) shall be implemented prior to the first use of the development and thereafter maintained so long as any part of the development remains in use.

Reason: To ensure that waste on the site is managed in a sustainable manner.

40. The site-specific construction environmental management plan approved in terms of condition 1(w) shall be implemented throughout the period from the commencement of development to the completion of development.

Reason: To minimise the effect that implementation of the development has on the environment.

41. During the construction phase of the development, the disposal of all waste shall accord with the construction phase waste management plan approved in terms of condition 1(x).

Reason: To ensure that waste on the site is managed in a sustainable manner.

42. The boundary treatments approved in terms of condition 1(d) shall be undertaken in accordance with the approved programme for implementation. The walls and fences approved in terms of condition 1(d) shall be erected in accordance with the approved programme for implementation.

Reason: To ensure that boundary treatment and walls and fences that are needed in the interests of amenity or safety are provided timeously.

43. The public art provision approved in terms of condition 1(y) above shall be provided in accordance with the approved timetable for implementation.

Reason: To ensure that public art is provided in accordance with policy 29 of the Highland-wide Local Development Plan and in accordance with the Public Art Strategy Supplementary Guidance adopted in March 2013.

Appendix 3

Advisory notes

1. *Time limit for implementation of this planning permission in principle*

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and as varied by the direction contained in this decision notice, 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 FIVE 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 will lapse.

2. *Notice of the start of development*

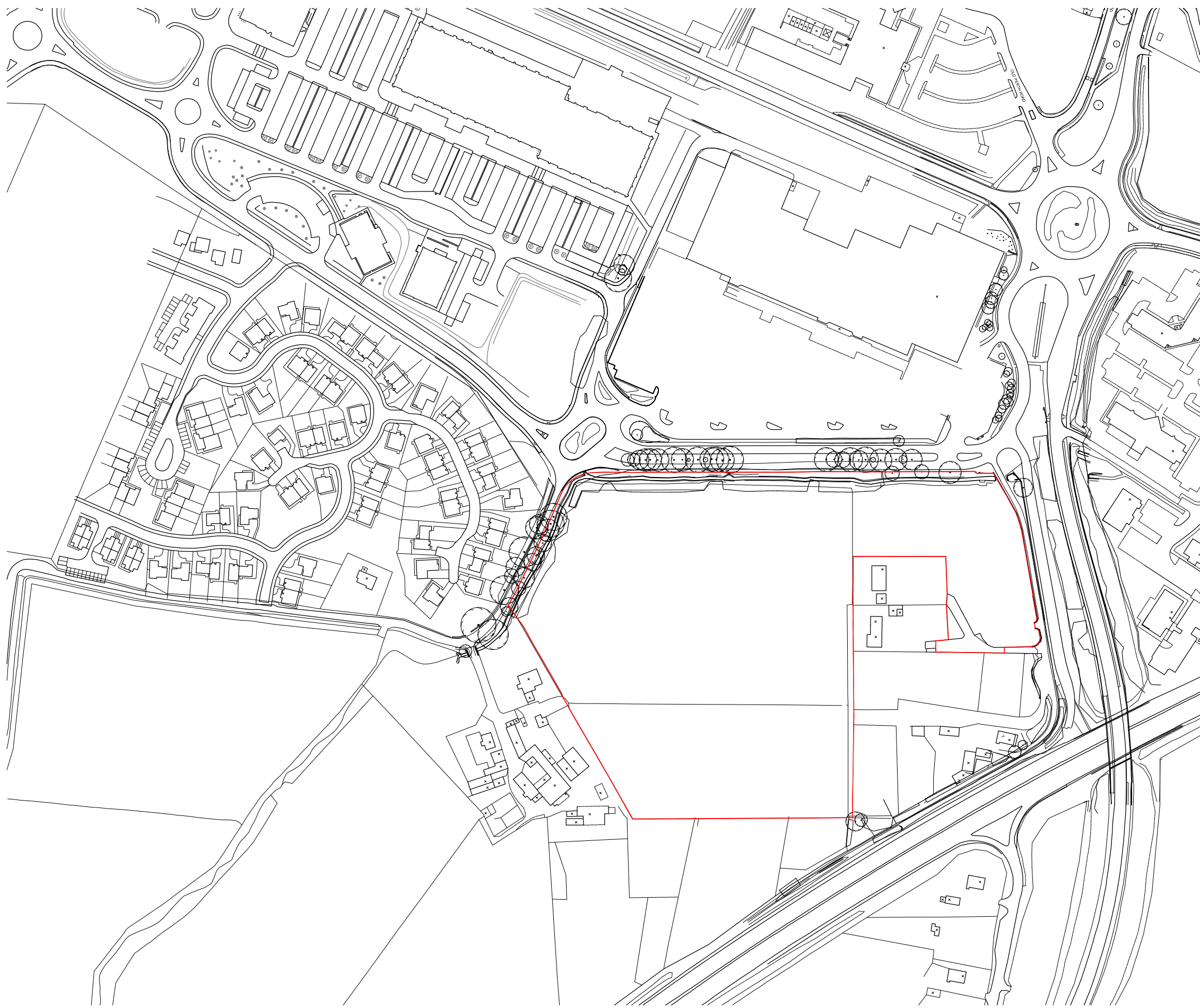
The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

3. *Notice of the completion of the development*

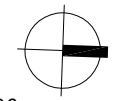
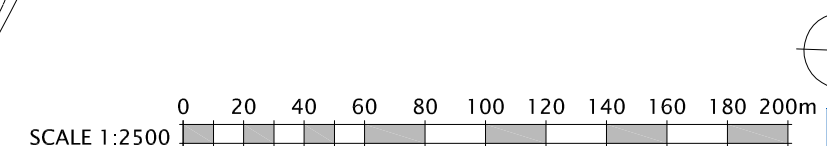
As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).

4. *Display of notice*

A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.



 Application Boundary



DELL OF INSHES MASTERPLAN
CORRAN / SWIP

LOCATION PLAN

STAGE: APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE	DRAWN: RN	CHECKED: PW	DATE: OCTOBER 2013	SCALE: 1:2500@A3	JOB NUMBER: 1023	DRAWING NUMBER: (PL)001	REV: -
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■ RETAIL - 50,515sq.ft with 316 Parking Spaces
■ PUBLIC HOUSE / RESTAURANT 6,500sq.ft with 60 Parking Spaces

■ ALLOTMENT OUTBUILDINGS
■ ALLOTMENT PLOTS 11 Standard 18x9m Plots, 2 large corner plots, Community Plot and Orchard - see TGP information

■ EXISTING TREE PLANTING For details refer to TGP drawing 1710 L01
■ LANDSCAPED ZONE For details refer to TGP drawing 1710 L01

KRIBLOK/DRY BEDDED MASONRY UNIT RETAINING WALL

0 10 20 40 60 80 100m
 SCALE 1:1000

DELL OF INSHES MASTERPLAN
CORRAN / SWIP

ILLUSTRATIVE MASTERPLAN

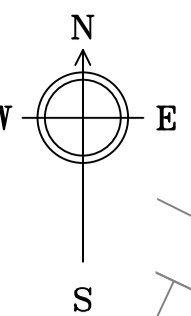
STAGE: APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE

DRAWN: RN CHECKED: PW DATE: OCTOBER 2013

SCALE: 1:1000@A3

JOB NUMBER: 1023 DRAWING NUMBER: (PL)002





EHS Trees

No.	Code	Species	Transplanted	Height cm	Girth cm	Grown	Breaks
-	BJ	Betula utilis jacquemontii	3x	min.450	18-20	RB	
-	BP	Betula pendula	3x	min.450	16-18	RB	5
-	FS	Fagus sylvatica	3x	min.450	18-20	RB	
-	PAP	Prunus avium 'Plena'	3x	min.450	18-20	RB	
-	SA	Sorbus aucuparia	3x	min.450	16-18	RB	5
-	TC	Tilia cordata 'Greenspire'	3x	min.450	18-20	RB	
-	TPR	Tilia platyphyllos 'Rubra'	3x	min.450	18-20	RB	

Ornamental Shrubs

No.	Code	Species	Height cm	Grown	Habit/Breaks	Density
-	Cae	Cornus alba 'Elegantissima'	50-60	PG 3L	Branched/4	3/m ²
-	Ec	Erica carnea 'Vivelli'	30-40	PG 2L	Bushy	9/m ²
-	Et	Erica tetralix 'Alba'	30-40	PG 2L	Bushy	9/m ²
-	Hm	Hebe 'Mrs Winder'	30-40	PG 3L	Bushy/5	5/m ²
-	Hr	Hebe rakaiensis	30-40	PG 3L	Bushy/5	5/m ²
-	Pm	Pinus mugo 'Mops'	20-30	PG 3L	Bushy	5/m ²
-	Sj	Skimmia japonica 'Rubella'	30-40	PG 3L	Bushy/3	5/m ²
-	Vd	Viburnum davidii	40-60	PG 3L	Bushy/3	5/m ²
-	Vt	Viburnum tinus	30-40	PG 3L	Bushy/4	3/m ²

Legend

- Existing tree managed and retained in accordance with BS 5837 2012
- Existing tree to be removed
- Proposed EHS trees
- Proposed EHS tree in grille
- Proposed orchard trees
- Proposed native woodland planting
- Proposed native shrub edge
- Proposed conifers
- Proposed mixed species native hedge
- Proposed low ornamental shrub planting
- Proposed grass seeding
- Proposed wildflower/bulb areas
- Proposed groundcover/herbaceous
- Proposed allotment beds
- Proposed raised planting areas
- High quality PCC paving with natural aggregate
- Trims
- Stabilised gravel
- Asphalt footpath
- Proposed seat walls/entrance walls
- Proposed seating
- Water butts

Notes

1. Refer to drg. no. 1710/M01 for Tree Management & Tree Protection Plan

Native Hedge Mix (Area H1 to be underplanted with Hedgerow Seed Mix)

No.	% Mix	Species	Size (cm)	Grown	Density
-	15	Corylus avellana	40-60	BR	Double staggered row @ 5 per lin/m per row
-	20	Crataegus monogyna	40-60	BR	
-	20	Fagus sylvatica	40-60	BR	
-	5	Ilex aquifolium	40-60	BR 2L	
-	15	Prunus spinosa	40-60	BR	
-	5	Rosa canina	40-60	BR	
-	10	Sambucus nigra	40-60	BR	
-	10	Viburnum opulus	40-60	BR	

Woodland Mix (Density 3/m²)

Species	Type	Size cm	Size/Root Cond.	% of mix
Betula pendula	transplant	40-60	BR 1+1	20
Corylus avellana	shrub	40-60	BR 1+1	10
Crataegus monogyna	transplant	40-60	BR 1+1	10
Ilex aquifolium	shrub	40-60	3L PG	5
Pinus sylvestris		40-60	3L PG	10
Quercus robur	transplant	40-60	BR 1+1	20
Sorbus aucuparia	transplant	40-60	BR 1+1	20
Viburnum opulus	shrub	40-60	BR 1+1	5

Shrub Edge Mix (Density 3/m²)

Species	Size cm	Size/Root Cond.	% of mix
Crataegus monogyna	40-60	BR 1+1	20
Viburnum opulus	40-60	BR 1+1	15
Ilex aquifolium	30-40	3L PG	5
Rosa pimpinellifolia	30-40	BR 1+1	30
Roas canina	40-60	BR 1+1	15
Prunus spinosa	40-60	BR 1+1	15

Bulb Mix planted @ 10/m²

% Mix	Species	Size (cm)
5	Allium ursinum	5/6
25	Anemone nemerosa	5/6
15	Convallis majalis	5/6
20	Cyclamen hederifolium	5/6
35	Hyacinthoides non-scripta	5/6

Conifer Woodland planted @ 2/m²

Species	Size (cm)	Grown
Pinus sylvestris	40-60	PG 3L

Wetland Seed Mix
Wetland Seed mix by Scotia seeds (www.scotiaseeds.co.uk) sown at a rate of 2g/m²

Grassed Areas
Grass seed mix (British Seed Houses Mix A19) sown at a rate of 35g/m² over 150mm topsoil.

Scottish Meadow
Landlife Scottish meadow mix (www.wildflowers.org.uk) grass free mix sown at a rate of 3-5g/m².

Rev. B 15/10/13 Amended to suit architects layout
Rev. A 21/08/13 Amended to suit comments



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Project	Inshes Retail Park, Inverness		
Title	Landscape Layout		
Date	Scale	Drawn	Checked
16/08/13	1:500 @ A1	RM	RT
Job	Element	No.	Issue
1710	Ext	L01	-
CDM DRA STAGE:	B/C	D/E	F
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	K/L		
	<input type="checkbox"/>		

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All dimensions to be verified on site prior to commencement of works.
Drawing to be read in conjunction with related TGP drawings, consultants drawings and any other relevant information.
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Outdoor garden & childrens play

Cycle racks

Rain Garden

- Community Garden**
- Raised beds
 - Shared facilities/equipment/storage
 - Composting
 - Orchard
 - Water butts

Community traditional allotments

Community building