

Erection of Drive-through Restaurant at New Craigie Retail Park, Kingsway East

KEY INFORMATION

Ward East End
Address
 New Craigie Retail Park

Applicant

Ryden
 7 Exchange Crescent
 Conference Square
 Edinburgh

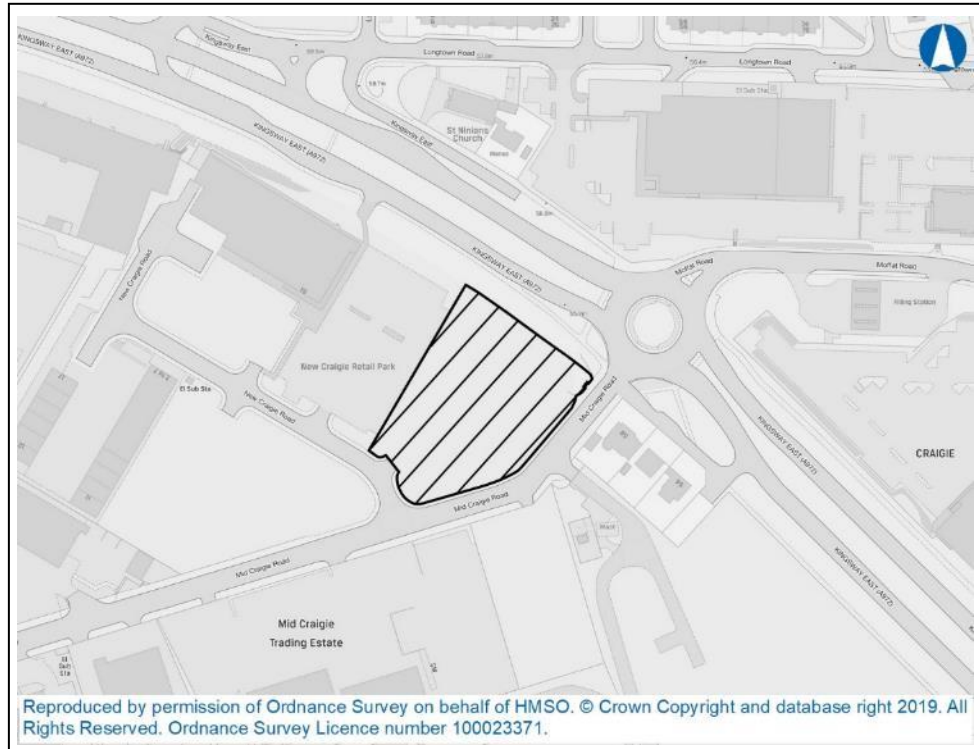
Agent

Marc Giles

Registered 11 June 2020

**Report by Head of Planning
& Economic Development**

Contact: Sharon Dorward



SUMMARY OF REPORT

- Planning permission is sought for the erection of a drive-through restaurant with associated car parking, landscaping, signage and infrastructure works on land at New Craigie Road.
- Planning permission in principle 17/00144/PPPM approved a mixed-use development including a Class 3 coffee shop with associated works.
- Although the application is not fully in accordance with the Development Plan the principle of a class 3 coffee shop in this location has been established and this is a material consideration of sufficient weight to justify approval of planning permission.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. In total 8 letters of objection were received to the proposal and one neutral letter of representation.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as six or more valid written objections have been received and the recommendation is for approval.
- More details can be found at: <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?keyVal=QBRQ5KGCIA600&activeTab=summary>

RECOMMENDATION

The proposal is not fully in accordance with the Development Plan. There are material considerations of sufficient weight to justify approval of planning permission. It is therefore recommended that planning permission be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Full planning permission is sought for the erection of a Class 3 drive-through restaurant with ancillary works, including site access and landscaping. The site benefits from planning permission in principle for the class 3 coffee shop, granted as part of 17/00144/PPPM which was approved by Committee in June 2017. The operator intends to sell coffees and other drinks, with a selection of pre-prepared baked goods and sandwiches and has stated that a fully functioning kitchen and associated extraction is not required. Hours of operation would be from 6:00am to midnight, 7 days a week. It is intended that deliveries would take place 2 days per week and not between the hours of 08:00pm and 07:00am.
- 1.2 The Class 3 unit is proposed to the east of the wider site, immediately adjacent to the Kingsway. The unit is proposed with a footprint of 338m² and would be constructed with a flat roof to a maximum height of 7 metres. External finishes are not fully specified but include black, brown and cream Kingspan cladding and glazing. Signage is proposed which is the subject of a separate advertisement consent application. Hard and soft landscaping is proposed at the perimeter of the site as trees, shrubs, groundcover and grass, with paving and gravel/bark. The Class 3 drive-through restaurant has both internal and external seating for up to 80 persons.
- 1.3 Access to the development is proposed to be taken from New Craigie Road which is the new road developed to serve the site as approved under planning application 17/00974/FULL, which leads from Mid Craigie Road and in turn the A927 Kingsway. Internal to the site there would be a one-way road system. The application proposes a total of 64 car parking spaces, of which 4 would be accessible, 4 parent and child and 2 'waiting' spaces for the drive-through. Two electric charging points are proposed.
- 1.4 The applicant has submitted the following in support of the application:
- Planning Statement;
 - Transport Statement;
 - Sustainability Statement;
 - Drainage Scheme; and
 - Road Construction Details.

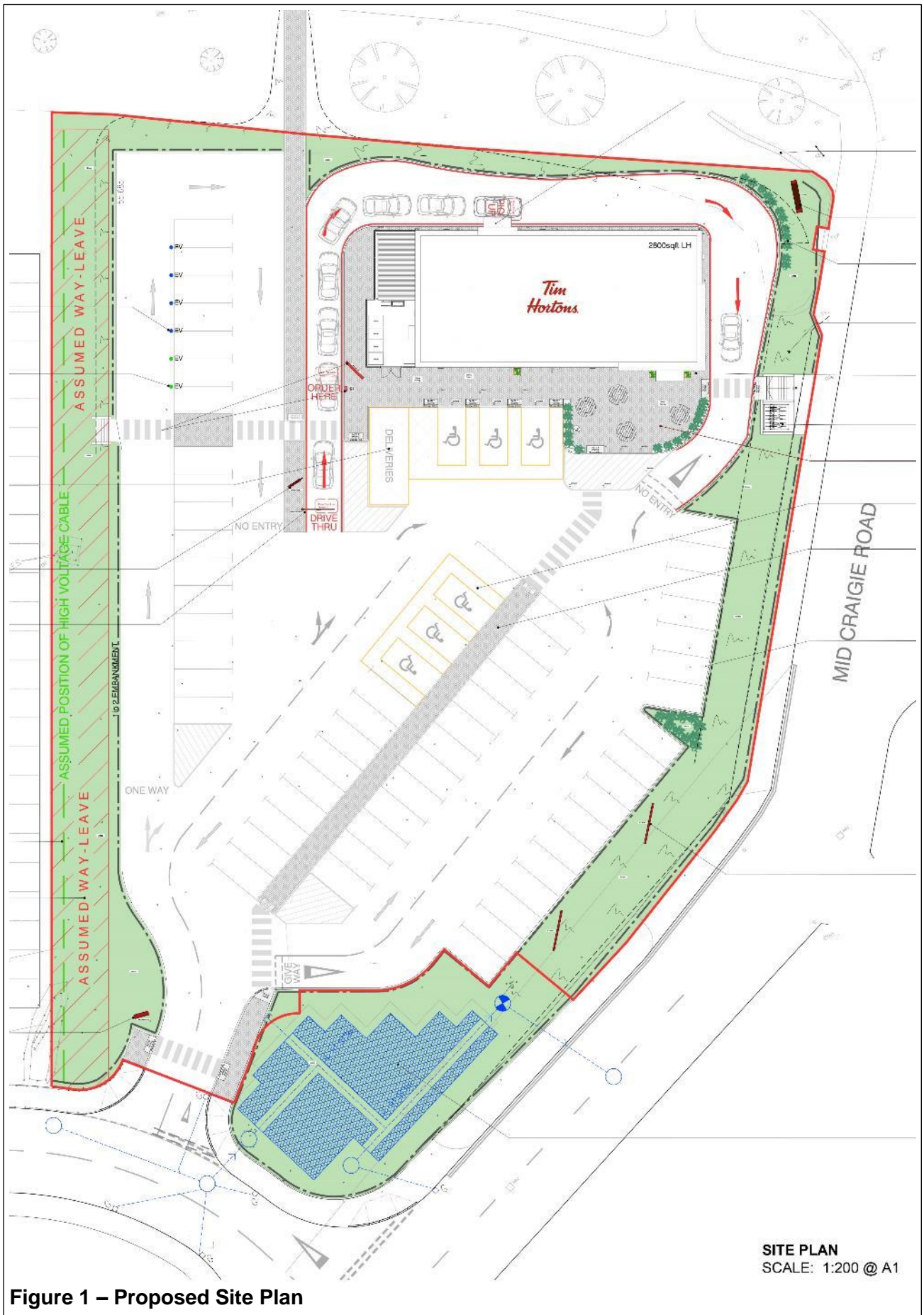


Figure 1 – Proposed Site Plan



Figure 2 – Proposed Elevations

2 SITE DESCRIPTION

- 2.1 The application site measures 4,600m² and is located within the application site boundary for planning permission 17/00144/PPPM, which is to the east of Dundee immediately south of the A972 Kingsway East. More specifically, the current application site sits to the immediate east of the recently constructed Lidl store. The site is situated within Mid Craigie General Economic Development Area. The application site is bound by Mid Craigie Road to the south, west and east. The application site is level, open and visible from the Kingsway. The site is currently vacant brownfield land, following the demolition of a factory unit in 2006. The site was cleared and land contamination works undertaken. Surrounding land uses are largely industrial, with some residential and retail uses and a cemetery beyond.



Figure 3 – View Towards Site

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking

Policy 5: General Economic Development Areas

Policy 6: Ancillary Services within Economic Development Areas

Policy 21: town Centre First Principle

Policy 27: Public Houses, Restaurants and Hot Food Takeaways

Policy 37: Sustainable Drainage Systems

Policy 39: Environmental Protection

Policy 41: Land Contamination

Policy 44: Waste Management Requirements for Development

Policy 48: Low and Zero Carbon Technology in New Development

Policy 54: Safe and Sustainable Transport

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 Planning application 08/00313/FUL was permitted in September 2008 for the remediation of materials following the demolition of the existing buildings and re-profiling of the site.
- 4.2 Proposal of Application Notice 13/00202/PAN for the erection of a foodstore, pub restaurant, coffee drive through and employment land with associated car parking, access and landscaping was submitted and agreed in April, 2013.
- 4.3 Planning application 16/00476/FULL for the erection of a vehicle body repair workshop and associated parking area was approved in August, 2016, to the immediate south of the current application site.
- 4.4 Planning application 17/00144/PPPM was approved at committee in June, 2017 for a mixed use development comprising industrial units (Class 4 & 5), car showroom (sui generis), family restaurant (with ancillary public house) and coffee shop (Class 3) and food retail (Class 1), with car parking, access and associated works for the wider application site.
- 4.5 Application for the approval of matters specified by condition reference 18/00077/APCONM was approved in July 2018 for the construction of 16 industrial units, subject to conditions.
- 4.6 Application for the approval of matters specified by condition reference 18/00460/APCONL was approved in September 2018 for the construction of the Lidl foodstore, subject to conditions.
- 4.7 Planning application 17/00974/FULL was approved in December 2018 for the proposed access road to the site, subject to conditions.

5 PUBLIC PARTICIPATION

5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.

- 5.2 In total 8 letters were received objecting to the proposal, including a letter from Dundee Cycle Forum.
- 5.3 The letters of objection raised the following:
- Contrary to Local Development Plan Policy 21, Town Centre First Principle,
 - Contrary to Local Development Plan Policy 54, Safe and Sustainable Transport,
 - Lack of cycle parking,
 - Increased traffic,
 - Increase in litter.
- 5.4 One neutral letter of representation was received from Dundee Civic Trust which raised the following:
- Recognition that the application complies as part of approval through 17/00144/PPPM,
 - Public art provision as required by 17/00144/PPPM,
 - Screen planting,
 - Jobs and income generation, offset from elsewhere.
- 5.5 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 **Transport Scotland** – has no objection but recommends conditions for traffic generation management.
- 6.2 **The Head of Community Safety and Protection has no objection but has commented in relation to:**
- Contaminated Land** – recommends a planning condition to secure a remediation statement.
- Environmental Protection** - recommends that noise and deliveries are restricted in line with the conditions applied to the wider site, and that premises will be restricted to a coffee shop within the Class 3 use with no cooking on site.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission (other than for a national development) shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

- 7.2 The provisions of the Development Plan relevant to the determination of this application are specified in the Policy Background section above.

TAYPLAN 2016 – 2036

- 7.3 **The application raises no issues of relevance.**

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.4 **Policy 1: High Quality Design and Placemaking** - requires all development proposals to follow a design-led approach to sustainable and high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, creating a sense of community and identity, and enhancing connectivity, with creative approaches to urban design, landscaping and green infrastructure. New development is required to meet the six qualities of successful place, in accordance with Appendix 1, creating development which would be distinctive, safe and pleasant, easy to move around and beyond, welcoming, adaptable, and resource efficient.

- 7.5 The site is located adjacent to one of the main routes through the city. The proposed development site is highly visible from the A972 Kingsway East. The existing buildings within the vicinity of the site are of a predominantly industrial form and design. The proposed Class 3 unit would be of a suitable scale and massing, given the design of the adjacent properties located on the Kingsway which are of similar massing and scale. The proposed finishes are not fully specified, incorporating black, brown and cream Kingspan insulated panels; but are acceptable as far as they are depicted in photographs submitted with the application. The landscaping proposed at the perimeter adjacent to the Kingsway would soften the appearance of the building. Planning conditions are recommended to agree further details in relation to the external finishes and the proposed landscaping.

- 7.6 **The proposal is in accordance with Policy 1, subject to conditions.**

- 7.7 **Policy 5: General Economic Development Areas** – supports proposals for Class 4, 5 and 6 developments. Other uses of a wider industrial nature such as car showrooms, wholesaling and scrap yards may be permitted provided:

- there would be no detrimental impact on neighbouring uses and residential amenity,
- there would be no unacceptable traffic impact, and
- the scale of development would be appropriate to the location of the application site.

Other uses with General Economic Development Areas will not be supported.

- 7.8 The application proposes the erection of a Class 3 drive-through restaurant, which is contrary to the terms of Policy 5. The principle of development has, however, been established through the grant of planning permission in principle application 17/00144/PPPM. The current proposal raises no new issues in terms of Policy 5, however, while the proposal is considered to be acceptable, it remains contrary to the provisions of Policy 5.

- 7.9 **The proposal is not in accordance with Policy 5.**

- 7.10 **Policy 6: Ancillary Services within Economic Development Areas** – supports small scale ancillary services which can be demonstrated to meet the needs of employees and complement existing businesses.
- 7.11 It is considered in this case that the proposed drive through units would not be ancillary to the Mid Craigie Economic Development Area. The proposed drive-through Class 3 unit would be situated adjacent to the Kingsway which would maximise visibility. The nature of the drive through use and the scale of the proposal with 64 car parking spaces indicates that the development is aimed at attracting visiting members of the public as opposed to supporting local employees from within the Economic Development Area. The principle of development has however been established through the grant of planning permission in principle application 17/00144/PPPM. The current proposal raises no new issues in terms of Policy 6, however, while the proposal is considered to be acceptable, it remains contrary to the provisions of Policy 6.
- 7.12 **The proposal is not in accordance with Policy 6.**
- 7.13 **Policy 21: Town Centre First Principle** – requires that all new or expanded uses that would generate significant footfall should be located in the City Centre or a District Centre. Proposals for such uses in other locations would only be acceptable where it can be established that:
- 1 no suitable site is available, in the first instance, in the City Centre or District Centres, then edge of town centre, then identified Commercial Centres, and then out-of-centre locations that are easily accessible by a choice of transport modes;
 - 2 the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres, or Commercial Centres, either individually or cumulatively; and
 - 3 the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres.
- The Policy emulates the Scottish Government's Town Centre First Principle by locating footfall generating uses sequentially within the City and District Centres etc.
- 7.14 A Class 3 drive-through outlet would generate significant footfall and as such, Policy 21 is relevant. No evidence has been provided to demonstrate a search for alternative sites and no assessment has been made of the impact that the proposed development would have on the vitality or viability of the City Centre or other centres. There is also no evidence to demonstrate that there is a deficiency in the provision of Class 3 drive-through units in Dundee.
- 7.15 Regardless of the fact that the application site lies within a designated General Economic Development Area, planning permission in principle application 17/00144/PPPM and the subsequent development to date has established the area as a retail/commercial area. The current proposal raises no new issues in terms of Policy 21, however, while the proposal is considered to be acceptable, it remains contrary to the provisions of Policy 21.
- 7.16 **The proposal is not in accordance with Policy 21.**
- 7.17 **Policy 27: Public Houses, Restaurants and Hot Food Takeaways** – supports proposals for hot food takeaways and restaurants outside the City Centre and District Centres where the premises has a gross floor area of up to 150m² and more than 30 metres from existing or proposed housing. If the floor area proposed would be over 150m², a 45 metre separation would be required from the curtilage of the proposal to the facade of any existing or proposed

houses. Proposals which do not meet these requirements may be permitted subject to a restriction on opening times and cooking methods.

- 7.18 In this case, the gross floor area of the proposed unit would be in excess of 150m². The façade of the nearest house is less than 20 metres from the curtilage of the application site. Although no cooking is proposed on the premises, the hours of operation are proposed as 6:00am to midnight. The proposal would not therefore meet the requirements of Policy 27. The location of the Class 3 Unit within the wider site has not been agreed as part of the planning permission in principle, however principle of development has been established with the approval of 17/00144/PPPM. The planning permission in principle does not restrict the hours of operation for the Class 3 use, as the location of the Class 3 unit within the wider site was unknown at that time.
- 7.19 The Head of Community Safety and Protection has recommended that planning conditions are attached to the planning permission in principle to restrict the Class 3 use to a coffee shop only and to prevent any cooking on site, and to ensure that hours of operation are restricted to 6:00am to midnight. In terms of noise and general disturbance, any ambient road traffic sounds will be more prevalent during the day. Given the location of the site adjacent to the Kingsway it is considered that the restriction of use during night time hours would be appropriate. The agent has further indicated that it is likely that the restaurant would close earlier than midnight and just leave the drive-through open later into the evening to reduce the amount of activity on site. Appropriate conditions are proposed, and while the proposal is considered to be acceptable in terms of the impact on nearby residential properties, it remains contrary to the provisions of Policy 27.
- 7.20 **The proposal is not in accordance with Policy 27.**
- 7.21 **Policy 37: Sustainable Drainage Systems** - states that surface water discharging to the water environment from the new development must be treated by a Sustainable Drainage System (SUDS), designed so that the water levels remain 600mm below finished floor levels during a 1:200-year rainstorm event with allowance for climate change and future urban expansion. Proposals are encouraged to adopt an ecological approach.
- 7.22 A drainage layout has been provided, however detailed surface water calculations are required along with compliance certificates, evidence of Scottish Water technical approval and compliance with the Simple Index Approach. The applicant has demonstrated that an acceptable drainage solution can be achieved within the site and conditions are recommended to ensure that full details of the drainage provision are agreed with Dundee City Council and Scottish Water in the interest of providing appropriate on-site drainage and in the interest of flood protection.
- 7.23 **The proposal is in accordance with Policy 37, subject to conditions.**
- 7.24 **Policy 39: Environmental Protection** - requires that all new development that would generate noise, vibration or light pollution is required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New development in close proximity to existing sources of noise, vibration or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on the viability of existing businesses or uses.
- 7.25 In this case, it is recommended that the same conditions as those applied to 17/00144/PPPM in relation to noise levels and delivery times be attached to the permission if granted. An additional condition is proposed to restrict the delivery hours to 6:00am to midnight 7 days a week.

- 7.26 **The proposal is in accordance with Policy 39, subject to conditions.**
- 7.27 **Policy 41: Land Contamination** – states that the development of potentially contaminated or statutorily identified contaminated land will be considered where a site investigation has been submitted and establishes the nature and extent of the contamination, and where the Council is satisfied that proposed remediation would adequately address contamination risks to all receptors, and be suitable for the planned use. Proposals for an alternative use to that identified in the Local Development Plan will be considered where the above criteria are satisfied, and it is established that the site cannot be economically developed for the allocated use, and the proposed use would meet the requirements of other relevant Local Development Plan policies.
- 7.28 The application site has undergone a substantial contamination remediation scheme under planning application 08/00313/FUL, to prepare the site to be the general standard expected for commercial developments. One of the conclusions of this work was that each new development should consider the previous remediation strategy, and ensure that the strategy would relate to new plans. In line with other developments at the wider site, a remediation statement has been submitted and agreed. A planning condition is recommended to secure the details of verification for the remediation scheme.
- 7.29 **The proposal is in accordance with Policy 41, subject to conditions.**
- 7.30 Policy 44: Waste Management Requirements for Development – requires development proposals to demonstrate that they adequately address the Scottish Government’s Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source with separate collection of recyclable material, as outlined in the Waste (Scotland) Regulations 2012.
- 7.31 The Planning Statement submitted with the application states that the proposed drive-through has identified waste storage facilities to provide for the various types of waste produced by the class 3 drive-through unit, which would be uplifted 2-3 times per week. A planning condition is proposed to secure further details for the waste storage facilities.
- 7.32 **The proposal is in accordance with Policy 44, subject to conditions.**
- 7.33 **Policy 48: Low and Zero Carbon Technology in New Development** - proposals for all new buildings will be required to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technologies. A statement will be required to be submitted with an application for planning permission to demonstrate compliance with this requirement.
- 7.34 The applicant has submitted a sustainability statement which proposes construction methods to include the installation of low and zero carbon generating equipment. A planning condition is proposed to seek the provision of an Energy Statement which demonstrates the proposals will comply with Scottish Building Standards.
- 7.35 **The proposal is in accordance with Policy 48, subject to a condition.**
- 7.36 **Policy 54: Safe and Sustainable Transport** - seeks that all development proposals which generate travel should be designed and well served by all modes of transport, and will be required to:
- 1 minimise the need to travel by private car;
 - 2 provide on-site facilities and links for walking and cycling;
 - 3 have access to public transport networks within 400 metres;

- 4 have no detrimental impact on the existing road or rail network;
- 5 ensure safe provision for freight and waste access and loading;
- 6 comply with national and Dundee City Council's road design standards; and
- 7 be supported by a travel plan where significant travel would be generated.

- 7.37 The application site would be accessed from New Craigie Road leading from Mid Craigie Road and the Kingsway. The Kingsway and roundabout form part of the trunk road network. A total of 64 car parking spaces are proposed, 10 of which would be allocated for accessible/parent and child access and "waiting" spaces. Two electric charging points would be provided in addition. A Transport Statement has been submitted and the findings of the Statement have been accepted.
- 7.38 The proposal is for drive through units, which by their nature do not minimise the need to travel by private car, contrary to Criterion 1. The applicant has not provided an assessment of the potential level of pedestrian generated trips or an assessment of the potential level of cycle generated trips, contrary to Criterion 2. There is a local bus route on the Kingsway and bus stops within 400 metres and therefore the proposal accords with Criterion 3.
- 7.39 Transport Scotland has not objected to the application but has asked for planning conditions to be attached to require additional monitoring of the traffic impacts of the development when it first opens to the public, and if necessary for the implementation of traffic management measures to manage any excess demand placed on the road network for the first month of opening. These measures may include the need to employ traffic management staff on -site. The purpose of this is to minimise interference with the safety and free flow of the traffic on the trunk road, specifically the roundabout junction on the Kingsway. Aside from the need to manage traffic flows in the first period after opening it is considered that the proposal will not have a detrimental effect on the capacity or safe functioning of the road network. With the addition of these planning conditions the proposal accords with Criterion 4.
- 7.40 The design and layout of the proposed development meets the required design standards and accords with Criterion 5. The proposal contains measures to encourage the use of sustainable transport. A travel plan would further help to encourage both staff and customers to use sustainable transport which would help to mitigate transport impacts. With the addition of a planning condition requiring the agreement of a travel plan the proposal accords with Criterion 6.
- 7.41 The principle of development of a coffee shop has been established through the grant of planning permission in principle application 17/00144/PPPM. The current proposal raises no new issues in terms of Policy 54, however, while the proposal is considered to be acceptable, through Criterion 1 and 2 it remains contrary to the provisions of Policy 54.

7.42 **The proposal is not in accordance with Policy 54.**

7.43 **It is concluded that the proposal is not in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

7.44 The material considerations to be taken into account are as follows:

A – JUSTIFICATION FOR A DEPARTURE FROM THE ADOPTED LOCAL DEVELOPMENT PLAN

7.45 Planning permission in principle 17/00144/PPPM was approved by Committee in June 2017, which includes the development of a Class 3 coffee shop. The applicant has elected to submit a full planning application for the details of the drive-through coffee shop in place of an

approval required by condition application in the interests of transparency and efficiency in processing. The wider planning permission in principle has been implemented, with other developments (including the Class 1 food store) now in operation and remains extant.

- 7.46 The application proposes the erection of a Class 3 drive-through restaurant, which is contrary to the terms of **Policy 5**. The principle of development has, however, been established through the grant of planning permission in principle application 17/00144/PPPM and the current proposal raises no new issues in terms of Policy 5.
- 7.47 It is considered in this case that the proposed drive-through units would not be ancillary to the Mid Craigie Economic Development Area and is therefore contrary to **Policy 6**. The principle of development has however been established through the grant of planning permission in principle application 17/00144/PPPM and the current proposal raises no new issues in terms of Policy 6.
- 7.48 The proposal is contrary to the terms of **Policy 21** which requires that all new or expanded uses that would generate significant footfall should be located in the City Centre or a District Centre. The principle of development has, however, been established through the grant of planning permission in principle application 17/00144/PPPM and the current proposal raises no new issues in terms of Policy 21.
- 7.49 The proposal would not meet the requirements of **Policy 27**, the floor area of the proposed unit would be in excess of 150m² and the façade of the nearest house is less than 20 metres from the curtilage of the application site. Although no cooking is proposed on the premises, the hours of operation are proposed as 6:00am to midnight. The principle of development has, however, been established through the grant of planning permission in principle application 17/00144/PPPM, which placed no restriction on the hours of operation for the Class 3 unit. The restriction of operating hours to 6:00am to midnight is considered to be acceptable given the ambient noise levels within the area adjacent to the Kingsway.
- 7.50 The proposal is contrary to the terms of **Policy 54** as it does not minimise the need to travel by private car or provided any assessment of the potential level of pedestrian or cycle generated trips. The principle of development has, however, been established through the grant of planning permission in principle application 17/00144/PPPM and the current proposal raises no new issues in terms of Policy 54.
- 7.51 It is considered that the nature of the area has changed and the subsequent development to date within the wider site has established the area as a retail/commercial area following the approval of planning permission in principle for the area. The principle of development has been established through the grant of planning application 17/00144/PPPM and the provisions of the planning permission in principle are a material consideration of significant weight to allow the approval of the Class 3 drive-through coffee shop.

B – REPRESENTATIONS

- 7.52 In total 8 letters were received objecting to the proposal, including one from Dundee Cycle Forum, and 1 letter has been received from Dundee Civic Trust neither objecting to nor supporting the proposal.
- 7.53 The objections raised the following valid material grounds:
- 7.54 **Objection** – the proposal is contrary to Policy 21, Town Centre First Principle.

- 7.55 **Response** – while no additional justification has been provided, as the applicant observes, the site benefits from planning permission in principle for the class 3 coffee shop, granted as part of 17/00144/PPPM which was approved by Committee in June 2017.
- 7.56 **Objection** – the proposal is contrary to Policy 54, Safe and Sustainable Transport, there is insufficient cycle parking and would be an increase in traffic.
- 7.57 **Response** – again, the site benefits from planning permission in principle for the class 3 coffee shop which was granted as part of 17/00144/PPPM, as approved by Committee in June 2017. Planning permission 17/00144/PPPM includes planning conditions to secure a footway adjacent to Mid Craigie Road and a scheme for upgrading pedestrian access facilities within the vicinity of the wider site. The Transport Statement submitted with this application has been agreed. Further planning conditions are proposed to this application to require that further details are agreed for electric vehicle charging and cycle parking provision and for the preparation of a travel plan. Planning conditions are proposed to require the monitoring of traffic flows immediately following the opening of the restaurant and the implementation of any necessary traffic management measures. This will ensure that the increase in traffic is properly managed.
- 7.58 One letter of representation neither supporting or objecting to the proposal was received from Dundee Civic Trust raising the following valid material planning considerations:
- the Trust state that it is recognised that the application complies with the uses approved as part of planning application 17/00144/PPPM,
 - more screen planting would be beneficial to the edge of the site adjacent to the Kingsway,
 - the public art contribution sought under 17/00144/PPPM was queried; and
 - evidence to support the claims of 172 jobs and £6.9m towards the economy was questioned, displacement from elsewhere believed more likely.
- 7.59 **Response** - a planning condition is proposed to seek further details of landscaping which would help screen the development from the Kingsway.
- 7.60 A public art contribution was sought under planning permission in principle 17/00144/PPPM, and appropriate contributions towards a stone sculpture project have been secured.
- 7.61 The planning statement submitted with the application states that the wider development, of which the current proposal is a part of, will generate 115 jobs in the short term and 172 jobs will be sustained in the longer term. More specifically, the applicant states that the proposal would expect to create 15 FTE and 35 PTE jobs.
- 7.62 The issues raised in the representations have been considered and addressed in the report and the grounds raised are not of sufficient weight to justify refusal of planning permission.
- 7.63 **It is concluded that there are material considerations of sufficient weight in this case to justify refusal of planning permission.**

8 CONCLUSION

- 8.1 The application for a Class 3 drive-through unit is not in accordance with the Development Plan. There are material considerations of sufficient weight that would justify approval of planning permission. It is therefore recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

9.1 It is recommended that planning permission be GRANTED subject to the following conditions:

- 1 **Condition** - prior to the commencement of any works on site, details of the proposed external finishes shall be submitted to the Planning Authority for approval. Thereafter the development shall be carried out in accordance with the approved details.

Reason – in the interests of visual amenity, to ensure that the development will respect the surrounding area.

- 2 **Condition** - prior to the commencement of any works on site, further details shall be submitted for all proposed landscaping at the boundary of the site, for approval in writing by Dundee City Council as Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason - in the interests of visual amenity.

- 3 **Condition** – the development hereby approved shall only operate as a café/coffee shop with ancillary take away service within Class 3 of the Town and Country Planning (Use Classes) (Scotland) Order, 1997, and no other Class 3 use.

Reason – in the interests of safeguarding residential amenity and in retaining proper control over the development.

- 4 **Condition** – no cooking shall be carried out on the premises of the café/drive-through hereby approved with the exception of the preparation and reheating of sandwiches, including breakfast muffins, wraps and baked goods unless otherwise agreed in writing with Dundee City Council as Planning Authority. For the avoidance of doubt, the cooking and reheating equipment installed will not comprise of hobs, griddles, frying pans, hot plates, deep fat fryers or a donut machine.

Reason – in the interests of safeguarding residential amenity and in retaining proper control over the development.

- 5 **Condition** – the proposed Class 3 drive-through coffee shop hereby approved shall only operate between 06:00 hours and 00:00 hours Monday to Sunday.

Reason – in the interests of safeguarding residential amenity and in retaining proper control over the development.

- 6 **Condition** – prior to the commencement of any works on site, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in section 26.7.1 of the CIRIA SUDS Manual (C753), and where appropriate SEPA comments shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

Reason – in the interests of flood protection.

- 7 **Condition** – prior to the commencement of any works on site, details of measures proposed to manage surface water run-off from the site during construction shall be

submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to construction works commencing on any part of the development hereby approved

Reason – in the interests of flood protection.

- 8 **Condition** – prior to the commencement of any works on site, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDS features shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.

Reason – in the interests of flood prevention and visual amenity.

- 9 **Condition** – prior to the commencement of any works on site, evidence of Scottish Water approval for the proposed drainage system for the development hereby approved shall be submitted to the Council for written approval.

Reason – in the interest of flood protection.

- 10 **Condition** – the total noise from all mechanical and electrical plant/services shall not exceed NR 35 during the night as measured 1 metre external to the facade of adjacent residential accommodation.

For the avoidance of doubt night time shall be 2300 to 0700 hours

Reason – in the interests of safeguarding residential amenity.

- 11 **Condition** – deliveries and servicing of the properties within this development, including loading, unloading or lay-up, shall not take place between 2200 and 0700 hours.

Reason – in the interests of safeguarding residential amenity.

- 12 **Condition** - before the unit is occupied the remediation strategy shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation strategy have been achieved shall be submitted to and approved by the planning authority.

Reason - in the interests of providing a site suitable for future development.

- 13 **Condition** – prior to the commencement of any works on site, further details for the waste storage facilities and waste management shall be submitted for the prior approval of Dundee City Council as Planning Authority.

Reason – in the interests of reducing non-recyclable waste and to ensure that the development can meet the requirements of the Scottish Government's Zero Waste Policy.

- 14 **Condition** – prior to the commencement of any works on site, a Sustainability Statement to demonstrate that the development will meet the requirements of Policy 48 of the Dundee Local Development Plan shall be submitted for the approval of the planning authority and the works shall be completed in accordance with the approved Statement.

Reason – in the interests of reducing carbon emissions associated with the proposed development.

- 15 **Condition** – prior to the commencement of any works on site, a plan for the implementation of traffic management measures, to manage any excess demand placed on the road network from the development between the hours of operation for the first month of opening, shall be submitted to the Planning Authority for written approval, in consultation with Transport Scotland. The plan is to be reviewed weekly and be amended as required. The plan may include the need to employ traffic management staff on -site.

Reason - to minimise interference with the safety and free flow of the traffic on the trunk road.

- 16 **Condition** - inbound and outbound trips shall be recorded, and an on-site parking accumulation survey shall be undertaken, between the hours of operation of the development on the first weekday of opening, the first Saturday of opening, and at one month (weekday and Saturday) following opening, to confirm that estimated trip generation is consistent with the submitted assessment of traffic impacts.

Reason - to maintain safety for both the trunk road traffic and the traffic moving to and from the development.

- 17 **Condition** - prior to any works on site details of the electric car charging points shall be agreed.

Reason – in the interests of sustainable travel measures.

- 18 **Condition** - prior to any works on site details of secure and covered cycle parking shall be agreed.

Reason – in the interests of sustainable travel measures.

- 19 **Condition** - the hard surface within the site shall be made of porous materials or provision shall be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

Reason – to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

- 20 **Condition** - a Travel Plan must be in place and agreed with the Local Authority within one year of the development opening.

Reason - in the interests of promoting sustainable transport.

Informative

Any damage caused to the existing adopted footway or carriageway ex adverso the site as a result of development work must be made good by the applicant at their expense. All related works must be to Dundee City Council standards and specifications.