

KEY INFORMATION

Ward Stobswell

Proposal

Erection of a Class 1 Retail Unit, means of access, car parking, landscaping, servicing and additional works and facilities

Address

Land at Dura Street
Dundee
DD4 6RU

Applicant

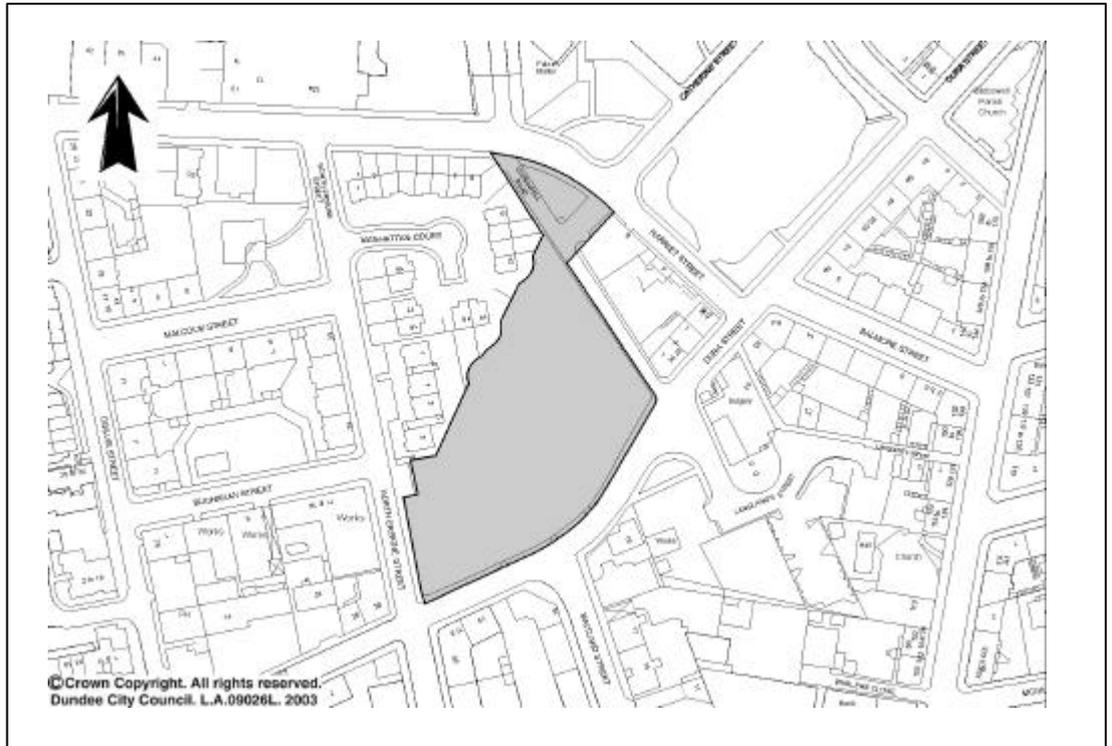
Lidl UK GmBH
Tailend Farm
Deans Road
Deans Industrial Estate
Livingstone

Agent

Smith Design Associates
16 Lynedoch Crescent
Glasgow
G3 6EQ

Registered 6 Oct 2004

Case Officer G S Reid



Proposed New Foodstore in Dura Street

The erection of a Class 1 Retail Unit is **RECOMMENDED FOR APPROVAL** subject to conditions.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development is considered to be in accordance with the policies of the Development Plan.

If Members are minded to approve the application then it must be referred to Scottish Ministers given the Council's interest in the site and level of objection.

The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a class 1 foodstore, car parking, landscaping, means of access, servicing and additional works at Land at Dura Street, Dundee.
- The application was deferred by the Development Quality Committee at its meeting on the 28 March 2005 to allow for further negotiations to take place between objectors and the applicants to resolve outstanding concerns. The applicants have had further discussions with objectors and amended their plans to take account of concerns raised.
- The proposal raises issues for consideration in terms of the Retailing Policies of the Dundee & Angus Structure Plan 2001-2016 and the Retailing, Movement and Housing Policies of the Dundee Local Plan 1998. In addition, it is considered that it raises issues for consideration in terms of Policy 50 of the Finalised Dundee Local Plan Review and the Development Framework of the Stobswell Neighbourhood Regeneration Strategy.
- The applicants re-notified neighbours in the surrounding area to advise of the amended plans. No additional objections have been received to the amended plans and no existing objections have been withdrawn.
- It is considered that the proposed foodstore is in accordance with the Retailing Policies of the Dundee & Angus Structure Plan 2001-2016 and the Retailing, Movement and Housing Policies of the Dundee Local Plan 1998. In addition, it is considered that it is in accordance with Policy 50 of the Finalised Dundee Local Plan Review and the Development Framework of the Stobswell Neighbourhood Regeneration Strategy. There are no material considerations that would justify a departure from the policies of the development plan.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of a class 1 foodstore, car parking, landscaping, means of access, servicing and additional works at Land at Dura Street, Dundee.

The proposal includes a foodstore of 1,258 sq. metres gross floor area and 82 customer car parking spaces. The applicant is Lidl who will also be the operator of the proposed store.

A new access for customers is to be taken from Dura Street and a separate service access is to be taken from Harriet Street.

The applicant's submitted additional information in support of their application. The additional information seeks to address the concerns raised by residents in the surrounding area in terms of the impact the new store may have on them and the surrounding area. The applicant has advised that they met with a group of objectors on the 27 January 2005 to discuss their concerns.

In the supporting information the applicant's advise that there will only be one delivery a day to the store. They also highlight that they are willing to agree a delivery time schedule in conjunction with the Council to avoid any potential conflict with pupils travelling to Clepington Primary School. This delivery is the only one to the store as the vehicle carries all the products required by the store and as a result there is no separate milk or bread deliveries. In addition, the same vehicle collects the stores refuse and materials for recycling back at the main distribution centre in Livingston. Therefore there will be no refuse collection lorries visiting the store.

The applicant's have also advised that there will be no compactor used at this store and a baler located within the store will be used instead.

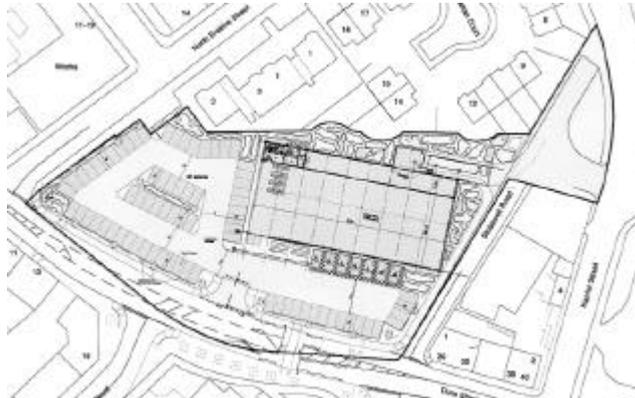
The applicants have had a Shadow Survey carried out in response to concerns of potential overshadowing raised by neighbours. The survey concludes that the proposed store would not give rise to any significant level of overshadowing of adjacent properties.

Finally the applicants propose to erect a security fence to the rear (northwest

boundary) of the store in response to concerns that people may use the area to the rear of the store to access the properties in Manhattan Court. In addition, they have highlighted that a barrier can be erected to close off the service area.

The Development Quality Committee at it's meeting on the 28 March 2005 deferred consideration of the application to allow for further negotiations to take place between the applicants and objectors.

The applicants have had further meetings with objectors and the Stobswell Forum. As a result of these the applicants have amended the plans and in particular have moved the building further away from the boundary wall in the north east corner. This is in line with the suggestions put



forward by the objectors planning advisers. The proposals also include a loading bay to the north elevation to allow for deliveries to the realigned store.

SITE DESCRIPTION

The application site is located to the north of Dura Street, to the east of North Erskine Street, to the west of the Harriet Street and Stobswell Road and to the south of Manhattan Court. The site extends to approximately 0.676 hectares, is flat in nature and was formerly occupied by buildings related to Stobswell Works. There are no buildings or structures within the application site. To the north of the site are residential properties and to the south, west and east are a mixture of uses including some residential.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Town Centres and Retailing Policy 4: Out of Centre Retailing.

Dundee Local Plan 1998

The following policies are of relevance:

Retailing Policy S20: Out of Centre Shopping.

Housing Policy H1: Existing Residential Areas.

Movement Policy MV10: North East/North West Arterial Routes.

Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application.

Finalised Dundee Local Plan Review

The following policy is of relevance:

Policy 50: Provision of New Supermarket in Dura Street

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

National Planning Policy Guideline 8 (Revised 1998): Town Centres and Retailing.

The following are of relevance:

Report 655/1999: Albert Street Study (Approved on 25 October 1999).

Report 591-2004 Stobswell Regeneration Strategy and Development Framework (Approved 20 September 2004).

LOCAL AGENDA 21

Key Theme 7 is of relevance to the consideration of this application. This theme seeks to ensure that access to

facilities, services, goods and people is not achieved at the expense of the environment and are accessible to all. Given the location of the proposed development it is considered that it achieves the aims of this Key Theme.

SITE HISTORY

There is no site history of relevance to the consideration of this application.

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the application was advertised in the "Dundee Courier and Advertiser" on the 18 October 2004 as a potential departure to the development plan.

In response 5 individual and 37 standard letters of objection were received to the proposed development.

In addition, the Dundee Civic Trust advised that while they welcomed the application for a supermarket in the Stobswell area they were concerned that the design was very basic and should not be supported on this basis.

The main concerns from the objectors were that:

- 1 The proposed development would have an adverse affect on the amenity of adjoining residents by virtue of overshadowing from the building itself and from vehicles parked in the service/loading bay.
- 2 The proposed development would have an adverse affect on the amenity of adjoining residents by virtue of pollution and noise from service vehicles.
- 3 The proposed development would result in an increased risk to Clepington Primary School children given the location of the service area of the store relative to the entrance to Clepington Primary School.
- 4 The proposed development would result in an increase in traffic in the surrounding streets from store customers.
- 5 The proposed development would result in the further risk of accidents and congestion due to additional right turning traffic on Dura Street to and from customer car park entrance.

- 6 The proposed development would undermine the planned regeneration of Albert Street as a community-based, pedestrian friendly shopping area by diverting traffic from Dura Street back onto Albert Street.
- 7 The proposed development would result in the loss of an area of green space within the area.
- 8 The proposed development would have an adverse affect on the aesthetic appearance of the Stobswell area.
- 9 The proposed development would have an adverse affect on the vitality and viability on the shops in Albert Street and the surrounding area.
- 10 The proposed development is inconsistent with the principles of NPPG8 and the policies of the Dundee & Angus Structure Plan and the Finalised Dundee Local Plan Review.

Prior to the Committee Meeting on the 28 March 2005 a petition with 206 signatures objecting to the proposal was submitted. The concerns raised reflected those outlined above.

Since deferral of the application by the Development Quality Committee two further individual objection letters have been received. Both raised concerns in terms of overshadowing.

As a result of revisions made to the layout the applicants re-notified neighbours on the 29 April 2005.

No additional objections have been received to the amended scheme and no existing objections have been withdrawn.

Copies of the letters of objection are available in the Members' Lounges and the concerns raised are addressed in the "Observations" section of this report.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advised that he had no objection subject to conditions restricting the servicing of the store to 0700 to 2200 hours Monday to Saturday and 0900 to 1800hours on Sundays, the use of any compactor to 0900 to 1800hours and a noise level restriction on all mechanical and electrical plant.

In addition, he advised that a standard contaminated land condition should be attached to permission if granted.

The Stobswell Forum submitted a letter advising that they had been asked to communicate the concerns of residents regarding the proposed Lidl Foodstore. The issues of concern are the same as listed above in the "Public Participation" section. The Forum requested that these views and serious concerns be taken into account when considering the planning application.

No adverse comments were received from any of the other statutory consultees.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

The Development Quality Committee at it's meeting on the 28 March 2005 deferred consideration of the application to allow for further negotiations to take place between the applicants and objectors.

The applicants have had further meetings with the objectors and the Stobswell Forum. As a result of these the applicants have amended the plans and in particular have moved the building further away from the boundary wall in the north east corner. This is in line with the suggestions put forward by the objectors planning advisers. The proposals also include a loading bay to the north elevation to allow for deliveries to the realigned store.

The application site is located on an area of vacant land on the north side of Dura Street. Part of the site lies within an area covered by Movement Policy MV10 Local Plan 1998. The remainder of the site has no specific

allocation and therefore Housing Policy H1 Local Plan 1998 applies.

Policy MV10 advises that planning permission for development or redevelopment within the identified landtake areas will not be granted until the land use policy review of the northeast arterial is finalised. The land use policy review has been completed and the improvements to this section of Dura Street are currently under construction. The proposed development can be accommodated without prejudicing the improvements to Dura Street.

The proposal is for a Class 1 foodstore 1,258 sq. metres gross floor area and is not located within an existing centre and as such raises issues for consideration in terms of Town Centres and Retailing Policy 4 Out of Centre Retailing of the Structure Plan 2001-2016 and Retailing Policy S20 Out of Centre Shopping of the Dundee Local Plan 1998. Both these policies set out criteria for the consideration of new out of centre retail developments. The criteria reflect the guidance set out in paragraph 45 of NPPG8. TC&RP 4 sets out 5 criteria for the assessment of developments in excess of 1000 sq. metres gross floor area.

The first of these is that no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centre. The application site is located on the north side of Dura Street and is considered to be in an edge of centre location in relation to Albert Street District Centre. In carrying out the Albert Street Study it was concluded that there was no site within Albert Street District Centre of a sufficient size to accommodate a modern foodstore of sufficient size to improve the shopping facilities in the area. It is considered that the proposal is acceptable in terms of this criterion.

The second criteria is that individually or cumulatively it would not prejudice the vitality and viability of existing city, town or district centres. The site is located within an edge of centre location and is within easy walking distance of Albert Street District Shopping Centre. It is considered that the store would both function as part of the district centre and strengthen its role in serving residents in the area. Therefore it is considered that it would not have a detrimental affect on the vitality and viability of Albert Street District Centre.

The third criteria for consideration is that the proposal would address a deficiency in shopping provision, which cannot be met within or on the edge of the above centres. The Albert Street study identified the need for a modern foodstore to provide for residents in the area and to support Albert Street as a District Centre. In addition, the Study concluded that there were no suitable sites within the district centre to accommodate a new foodstore. The study therefore identified the application site in Dura Street. This site has also been allocated in Finalised Dundee Local Plan Review through Policy 50 for a foodstore. The proposal would therefore meet an identified deficiency at Albert Street District Centre.

The fourth criteria is that the site is readily accessible by modes of transport other than the car. The site is in close proximity to existing bus routes in Dura Street and Albert Street. The site is also easily accessible on foot from the surrounding area. A new pedestrian crossing is being formed adjacent to the site as part of the improvements to this part of Dura Street. This will improve access to the site. Therefore the site is considered to be readily accessible by modes of transport other than the car.

The fifth criteria is that the proposal is consistent with other Structure Plan Policies. It is considered that the proposal is consistent with the other Structure plan policies.

In conclusion it is considered that the amended proposal meets all of the criteria of Town Centres & Retailing Policy 4 of the Structure Plan.

Retailing Policy S20 of the Dundee Local Plan 1998 sets out similar criteria to TC&RP 4 of the Structure Plan. The Local Plan also contains some additional criteria. The proposal also raises issues of in terms of certain of these criteria:

- 1 That the proposal provide for significant improvements in the distribution and accessibility of shopping provision. It is considered that given its location it would improve the distribution and accessibility of shopping provision within this part of the City.
- 2 That it does not create a shortage of good quality industrial or business use land. The site was

formerly part of Stobswell Works and was cleared of buildings and formed part of the landtake for the NE Arterial. The development of this site for a foodstore would not create a shortage of good quality industrial or business use land.

- 3 The design, scale and relationship to the surroundings would contribute positively to the quality of the urban area. Improvements have been made to the design of the building and the layout of the site. As a result it is considered that the proposal would contribute positively to the visual appearance of the surrounding area.

It is considered that the amended proposal is in accordance with the criteria of Retailing Policy S20 of the Dundee Local Plan 1998.

The site is located in an area with no specific policy allocation. Housing Policy H1 applies to these areas and seeks to ensure that proposals do not adversely affect the environmental quality of surrounding residents. Various concerns have been raised by objectors in terms of the potential impact that the proposal could have on the surrounding area. These are addressed in the following section of the report relating to all of the objections raised. It is suffice here to say that it is considered that the proposal is acceptable in terms of Housing Policy H1.

It is concluded from the foregoing that the amended proposal complies with the provisions of the development plan.

Other Material Considerations

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

Finalised Dundee Local Plan Review

Policy 50 of the Plan supports the development of a new food and convenience goods supermarket in Dura Street with a gross floor area not exceeding 1,300 sq. metres to serve the Albert Street area. The allocation in Dura Street identified on the proposals map is the site subject to the current planning application by Lidl. The application by Lidl is for a food and convenience goods supermarket of 1,258 sq. metres gross floor area. The

amended proposal is considered to be in accordance with Policy 50 of the Finalised Local Plan.

Report 655/1999 Albert Street Study (approved 25 October 1999) set out proposals to tackle the decline in the Albert Street shopping centre. The Reports recommended the investigation of the potential to develop a new supermarket in Dura Street. An area of search was outlined and included the current application site. The Stobswell Neighbourhood Regeneration Strategy was approved by Committee on 20 September 2004. The strategy sets out the Stobswell Development Framework for 2002 - 2008. The Framework includes the proposals for the development of a supermarket on the application site. The amended proposal is therefore considered to be in accordance with the Albert Street Study and the Stobswell Neighbourhood Regeneration Strategy.

In addition, the Dundee Civic Trust advised that while they welcomed the application for a supermarket in the Stobswell area they were concerned that the design was very basic and should not be supported on this basis. Discussions have taken place with the applicants and improvements to the design of the building and layout of the site have been secured. It is considered that the design and layout of the amended proposal is acceptable.

The main concerns from the objectors were that:

1 "the proposed development would have an adverse affect on the amenity of adjoining residents by virtue of overshadowing from the building itself and from vehicles parked in the service/loading bay". Given the height of the building and its relationship to the houses it is considered that there would be no significant overshadowing of the properties in the surrounding area. There will only be a single delivery to the store per day with the lorry only remaining there for the period of the delivery. As such it is considered that the parked service vehicles would not result in significant overshadowing. The applicants have also submitted a Shadow Survey to address the concerns of the residents. The survey demonstrates that there would be

no significant levels of overshadowing of the properties to the north west of the site.

- 2 "the proposed development would have an adverse affect on the amenity of adjoining residents by virtue of pollution and noise from service vehicles." As indicated above there will only be a single delivery a day to the store with the timing of this agreed with the Council. Given this low level of activity it is considered that the proposal would not have detrimental affect on the amenity of residents by virtue of pollution and noise.
- 3 "The proposed development would result in an increased risk to Clepington Primary School children given the location of the service area of the store relative to the entrance to Clepington Primary School." As already indicated there will only be a single delivery a day to the store. The applicants have agreed to condition the delivery time in agreement with the Council. The delivery time can be set to ensure that it is outwith the times for children travelling to school. The proposal would therefore raise no concerns of conflict with the adjacent primary school.
- 4 "The proposed development would result in an increase in traffic in the surrounding streets from store customers." The proposal is for a modest size food supermarket rather than a food superstore. The proposal is to have approximately 90 customer car parking spaces. The customer access is to be from Dura Street. The store is also aimed at serving the same catchment as Albert Street district shopping centre. Given the size and location of the store it is considered that it would not generate significant levels of additional car journeys in the surrounding area. As such it would not lead to a significant increase in traffic in the surrounding area.
- 5 "The proposed development would result in the further risk of accidents and congestion due to additional right turning traffic on Dura Street to and from customer car park entrance." It is considered that given the recent

improvements to this section of Dura Street and that a new access is to be formed to serve the store no issues of traffic safety or movement in this part of Dura Street would arise as a consequence of the proposal.

- 6 "The proposed development would undermine the planned regeneration of Albert Street as a community-based, pedestrian friendly shopping area by diverting traffic from Dura Street back onto Albert Street." It is considered that the proposal would not push traffic back onto Albert Street but encourage shoppers to undertake linked trips with the district centre by walking from the store car park to the centre. In addition, given the likely levels of traffic generated by the store it is considered that it would not result in congestion on Dura Street and therefore force traffic onto Albert Street.
- 7 "The proposed development would result in the loss of an area of green space within the area." This site was previously occupied by commercial buildings. The buildings were cleared and the land reserved for the previously proposed NE Arterial route. This area was therefore never proposed to be open space for the surrounding area. The loss is not considered to be significant in terms of the provision of open space in the area.
- 8 "The proposed development would have an adverse affect on the aesthetic appearance of the Stobswell area." Given the improvements secured to the design of the building and layout of the site it is considered that the proposal will enhance the visual appearance of the area.
- 9 "The proposed development would have an adverse affect on the vitality and viability on the shops in Albert Street and the surrounding area." It is considered that the proposal will provide residents in the area with a modern food supermarket and allow for the opportunity for linked shopping trips. As such it is considered that the proposal will help to maintain and improve the viability and vitality of Albert Street District Centre.

10 "The proposed development is inconsistent with the principles of NPPG8 and the policies of the Dundee & Angus Structure Plan and the Finalised Dundee Local Plan Review." Given the location and size of the proposed store it is considered that it is in accordance with principles of NPPG8 and the policies of the Dundee & Angus Structure Plan and the Finalised Dundee Local Plan Review.

It is concluded from the foregoing that there are no material considerations that would justify a departure to the policies of the development plan. It is therefore recommended that planning permission be approved.

Design

As outlined above improvements to the design of the building and layout of the site have been secured through negotiation with the applicant. As such the amended proposal is considered to be of a good quality design and layout.

CONCLUSION

It is considered that the proposed foodstore as amended is in accordance with the Retailing Policies of the Dundee & Angus Structure Plan 2001-2016 and the Retailing Movement and Housing Policies of the Dundee Local Plan 1998. In addition, it is considered that it is in accordance with Policy 50 of the Finalised Dundee Local Plan Review and the Development Framework of the Stobswell Neighbourhood Regeneration Strategy. There are no material considerations that would justify a departure from the policies of the development plan.

In terms of the Town and Country Planning (Notification of Applications)(Scotland) Direction 1997, if Members are minded to approve the planning application it will be necessary to refer it to the Scottish Ministers due to the Council having a financial interest in the site and that a level of objection has been raised to the proposed development.

RECOMMENDATION

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

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 That the sale and display of comparison goods shall be limited to no more than 30% of the net sales area of the store, subject to a limitation that no single group of goods from the following list (a) and (h) inclusive shall occupy more than 50% of the said sales area floor space devoted to the sale of comparison goods, the said listing being as follows:
 - a books;
 - b clothing and footwear;
 - c furniture, floor coverings and household textiles;
 - d radio, electrical and other durable goods;
 - e hardware and DIY supplies;
 - f chemist goods;
 - g jewellery, silverware, watches and clocks; and
 - h recreational and other miscellaneous goods.
- 3 That the proposed foodstore shall have a gross floor area not in excess of 1258 sq metres.
- 4 That a scheme for the investigation of contamination within the site and for its remediation and validation of remediation shall be submitted to the Council for approval prior to the commencement of development and if approved the development shall be carried out only in full accordance with such approved details.
- 5 Details of the delivery times to the store shall be submitted to the Council for approval prior to the commencement of development and if approved the proposed development shall be carried out only in full accordance with such approved details.
- 6 Noise from all mechanical and electrical plant shall not exceed NR35, as measured 1 metre from the façade of the nearest residential property.
- 7 A detailed landscaping scheme including both soft and hard surfacing shall be submitted to

the Council for approval prior to the commencement of development and if approved the proposed development shall be carried out only in full accordance with such approved details.

- 8 Samples of all finishing materials shall be submitted to the Council for approval prior to the commencement of development and if approved the proposed development shall be carried out using only the approved finishing materials.
- 9 Details of the security fencing to the rear (Northwest boundary) of the store and the barrier to the service yard shall be submitted to the Council for approval prior to the commencement of development and if approved the proposed development shall be carried out only in full accordance with such approved details.
- 10 Details of the finished floor levels of the building and finished levels of the service road shall be submitted to the Council for approval prior to the commencement of development and if approved the proposed development shall be carried out only in full accordance with such approved details.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To conform with the approved shopping policies of the development plan.
- 3 To conform with the approved shopping policies of the development plan.
- 4 To ensure that any potential contaminated land is identified and remediated.
- 5 In the interests of residential amenity and to comply with the Council's standards for the control of night-time noise.
- 6 In the interests of residential amenity and to comply with the Council's standards for the control of night-time noise.
- 7 To ensure that the visual appearance of the proposed

development is to an acceptable quality.

- 8 To ensure that the visual appearance of the proposed development is to an acceptable quality.
- 9 To ensure that the visual appearance of the proposed development is to an acceptable quality.
- 10 To ensure that there is no significant overshadowing of properties in the surrounding area.