

**KEY INFORMATION**

Ward Lochee

**Proposal**

Matters specified in Conditions of 09/00427/OUT, Erection of Foodstore, Cafe and Petrol Filling Station etc. Conditions 1, 7, 9, 10, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 25, 26 and 27.

**Address**

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MacDonald Estates Group  
Plc c/o Hargest & Wallace  
Planning Ltd  
22 Manor Place  
Edinburgh EH3 7DS

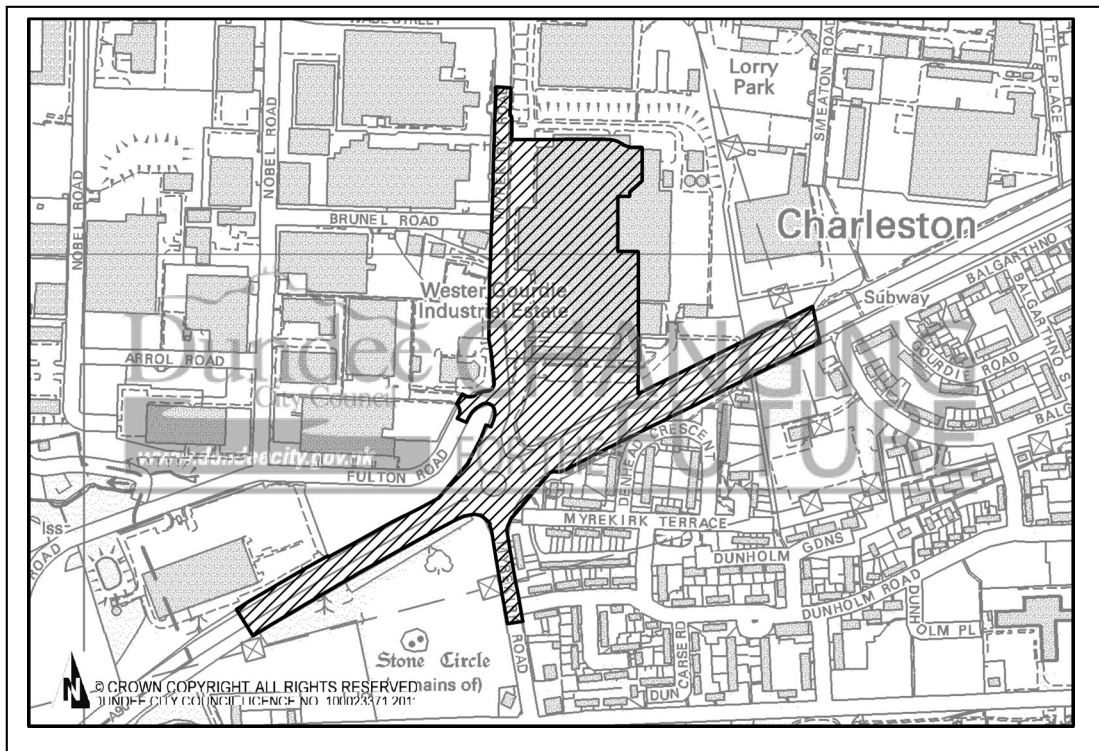
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Registered 25 Oct 2011



## Approval of Matters Specified in Conditions Linked to Permission in Principle for Foodstore on Former NCR Factory Site

Matters specified in conditions of 09/00427/OUT for Erection of Food Store, Cafe and Petrol Filling Station etc (Conditions 1, 7, 9, 10, 12, 13, 14, 16, 17, 18, 20, 21, 22, 25 and 26) are **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

**RECOMMENDATION**

The application to approve certain matters specified in conditions of planning permission in principle 09/00427/OUT is considered to be acceptable in relation to Conditions 1, 7, 9, 12, 13, 14, 16, 17, 18, 20, 21, 22, 25 and 26 and in compliance with the relevant Policies of the Development Plan. There is insufficient information to approve the terms of matters specified in conditions 15 and 27 and so these do not form part of the approval. There are no material considerations of sufficient weight such as to justify refusal of the application. The application is therefore recommended for **APPROVAL** subject to conditions.

**SUMMARY OF REPORT**

- The application under consideration is to approve matters specified in 17 of the conditions of a planning permission in principle approval for the erection of a foodstore, cafe and petrol filling station, with associated car parking, landscaping and infrastructure (including access roads) at the former NCR site located to the north east of the junction of Myre Kirk Road and A90 (T) Kingsway West. The planning permission in principle was approved on 18 January 2010 and so the principle of development is already established. Approval was sought in relation to 18 of the conditions at the time of the submission of this application. However, as a result of subsequent discussions, the applicants no longer wish to seek approval for Condition 6 of 09/00427/OUT at this time. This aspect of the initial application has therefore been withdrawn at the request of the applicants agent. Condition 6 and other conditions shall require to be the subject of a further application.
- The information submitted in relation to the conditions is considered to be acceptable and in accordance with the relevant Policies of the Dundee Local Plan Review 2005.
- Objections have been received to the application which relate to matters contained within the Planning permission in principle concerning the location of access roads to the store. As these matters have already been approved with the granting of planning permission in principal, such issues cannot be considered at this stage in the determination of this application.
- The proposals are consistent with the requirements of the relevant policies of the development plan. There are no material considerations of sufficient weight to support refusal of the application as a departure from the development plan.

**DESCRIPTION OF PROPOSAL**

The application under consideration is to approve certain matters specified in the conditions of a planning permission in principle for the erection of a foodstore, cafe and petrol filling station, with associated car parking, landscaping and infrastructure (including access roads) at the former NCR site located to the north east of the junction of Myrekirk Road and A90 (T) Kingsway West. The planning permission in principle was approved on 18 January 2010 and so the principle of development is already established.

The application seeks approval of matters specified in a number of conditions in relation to the planning permission in principle. In total 35 conditions were attached to the approval of the planning permission in principle. It is considered that those conditions which were attached to the permission fall into three categories; those which do not require further approval which seek to regulate the operation of the use; those which require approval not sought at this time and those requiring approval for which approval is sought as part of this application and the other application on this agenda (11/00198/APPCON). It is therefore anticipated that the applicant will submit further applications for approval of the remaining relevant conditions attached to the planning permission in principle which require approval in the future.

For the purposes of the current application, approval of the details is now sought in relation to 17 of the conditions. These relate to the following and the numbering relates to the order of appearance on the permission to 09/00427/OUT:

1 - before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building (s) and the landscaping of the site.

Reason - to reserve those matters for future consideration by the Council.

7 - prior to the commencement of any development on site proposals for the

provision of either new or extended bus services across the A90 (T) to the development, including details of operating hours, frequency of service, route and timescale for introduction, shall be submitted to and approved in writing by the planning authority, after consultation with Transport Scotland Trunk Road Network Management.



Reason - to be consistent with the requirements of SPP17: Planning for Transport.

9 - prior to the commencement of any development on site a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network. For the avoidance of doubt, the Travel Plan shall identify measures to be implemented; the system of management, monitoring, review and reporting; and the duration of the plan.



Reason - to be consistent with the requirements of SPP17: Planning for Transport.

10 - prior to the occupation of any part of the development a scheme for the upgrading of the pedestrian underpass

beneath the A90 Kingsway West shall be approved and implemented to the satisfaction of the planning authority in consultation with Transport Scotland Trunk Road Network Management.

Reason - to be consistent with the requirements of SPP17: Planning for Transport.

12 - prior to the commencement of development a fence/barrier of a type approved by the planning authority in consultation with Transport Scotland Trunk Road Network Management shall be provided and maintained along the proposed boundary of the site with the trunk road.

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

13 - prior to the occupation of any part of the development a footway/cycleway on the north side of Kingsway West linking with existing footways and the underpass shall be provided in accordance with a scheme that has been submitted to and approved in writing with the planning authority.

Reason - to ensure that there is adequate pedestrian and cycle routes to the proposed development site and to promote sustainable travel to and from the development.

14 - prior to the commencement of any development on site details of the proposed widening of Myrekirk Road South at the junction of Myrekirk Road and Kingsway West shall be submitted to and approved in writing by the planning authority.

Reason - in order to improve journey times through the junction for vehicles accessing the proposed development.

15 - prior to the occupation of any part of the development a fully linked and operational CCTV system shall be provided at the revised Kingsway West/Myrekirk Road junction in accordance with a scheme that has been submitted to and agreed in writing by the planning authority in consultation with Tayside Police.

Reason - in order to ensure adequate control of the proposed traffic lights.

16 - that prior to the occupation of any part of the development an access to the site from Myrekirk Road shall be formed and constructed in accordance with a scheme that has been submitted to and approved in writing by the planning authority. For the avoidance of doubt, this scheme shall be submitted to and approved in writing by the planning authority prior to the commencement of development on the site.

Reason - to ensure that there is an adequate and appropriate junction formed to access the development and minimise impact of traffic pollution at the nursery.

17 - Prior to occupation of any part of the development the proposed widening of Myrekirk Road North between Kingsway West and the proposed store access shall be formed and constructed in accordance with a scheme that has been submitted to and approved in writing by the planning authority.

Reason - to ensure there is adequate road capacity to cater for the proposed development traffic.

18 - prior to the occupation of any part of the development details of a proposed off carriageway bus stance/lay-by to Dundee City Council specifications shall be submitted to and approved in writing by the planning authority.

Reason - to ensure that there is appropriate infrastructure in place to accommodate the required bus service

20 - prior to the occupation of any part of the development a bus pole and associated road markings shall be provided to the west of Myrekirk Road North in accordance with a scheme that has been submitted to and approved in writing by the planning authority

Reason - to ensure that there is appropriate infrastructure in place for the bus service

21 - that prior to the occupation of any part of the development a service access to the proposed store shall be formed and constructed in accordance with a scheme that has been submitted to and approved in writing by the planning authority.

Reason - to ensure service vehicles associated with the proposed

development can enter and exit the development site with minimum interference to traffic on Myrekirk Road.

22 - that the internal road and car parking layout associated with the proposed new store shall be set to allow for the provision of public transport movement through the site.

Reason - to ensure that there is adequate space within the proposed development to allow for bus services.

25 - that prior to the commencement of trading from the store pedestrian crossing points in the form of dropped kerbs shall be provided on Myrekirk Road North in accordance with a scheme that has been submitted to and approved in writing by the planning authority.

Reason - in order to ensure that there are a sufficient number of dropped kerb crossings points to assist pedestrian access to the proposed development.



26 - prior to the commencement of trading from the store pedestrian crossing points in the form of dropped kerbs shall be provided within Charleston Housing area in accordance with a scheme that has been submitted to and approved in writing by the planning authority

Reason - in order to ensure that there is an adequate number of dropped kerb crossing points to assist pedestrian access to the proposed development.

27 - prior to the commencement of any development on the site the further investigation and risk assessment proposed in the Stage 1 Desk Study and the partial Stage 2 Site Investigation Study are completed and a remediation strategy to deal with contamination at the site has been submitted and approved in writing by the planning authority. The strategy shall contain proposals to deal with contamination to include:

- a the nature, extent and type(s) of contamination on the site;

b measures to treat/remove contamination to ensure that the site is fit for the use proposed and does not contain any significant pollution linkages;

c measures to deal with contamination during construction works; and

d verification of the condition of the site on completion of decontamination measures.

For the avoidance of doubt, before any 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 in writing by the planning authority.

Reason - in order to ensure that the site is fit for the use proposed.

Details have been submitted in relation to each of the above conditions. The general form and principles already approved remain in place for development of the following:

- demolition of the existing building and the provision of a store of 4,880m<sup>2</sup> net floor area, 8,295m<sup>2</sup> gross internal floor area;
- car parking (approximately 570) located to the south of the proposed store on the Kingsway West frontage;
- a petrol filling station; and
- the principal access into the site being taken from Myrekirk Road to the west at a location approximately 200 metres north of Myrekirk Road/Kingsway West junction. Service vehicles would access the site from a second junction with Myrekirk Road located in the north west corner of the application site.

The proposals previously approved by 09/00427/OUT involved significant improvements to the Myrekirk Road/Kingsway West junction including altering the size and shape of the roundabout and the introduction of traffic lights. Also proposed were the up-grading of the pedestrian underpass across Kingsway West, the provision of footpaths and cycle ways and improvements to adjacent roadways.

The indicative masterplan submitted to accompany the original planning permission in principle application indicated that vehicular access to this land can be achieved using the second of the two access roads provided in the application. The applicants have advised that there are no proposals for specific uses within the remainder of the former NCR site at this current time.

## **SITE DESCRIPTION**

The site is located on the edge of Wester Gourdie Industrial Estate on the north east side of the junction of Myrekirk Road and Kingsway West. The application site forms part of a larger industrial site that accommodated the former NCR factory complex.

The existing building accommodates a one/two storey south facing brick frontage used for administration purposes. To the rear of this is the former production/manufacturing area of the complex. The main access into the site is from the mini roundabout on Myrekirk Road to the west that leads to the car parking area located on the south side of the building. The service access is located on the north side of the site.

A landscape area is evident on the Kingsway frontage and protected cherry trees are evident on the south and west boundaries of the site.

The surrounding area is predominantly industrial in character with the exception of several uses including car dealerships, a children's nursery and a residential property. An established residential area (Charleston) is located to the south of the site on the south side of Kingsway West.

## **POLICY BACKGROUND**

### **Dundee and Angus Structure Plan 2001-2016**

Transport Policy 4: Development Location - this policy requires that new development should, as a minimum, require to demonstrate that they satisfy the following criteria:

- provide safe, convenient and attractive facilities for pedestrian, cycle and public transport access;
- provide or use walking and cycle routes which are or can be linked

into established and planned networks;

- are accessible to or can be made accessible to the existing or proposed public transport networks; and
- are located where local road network capacity is available.

Development proposals generating significant traffic must be supported by Transport Assessments and Travel Plans where necessary and Travel Plans will be implemented through appropriate planning conditions and/or other agreements.

### **Dundee Local Plan 2005**

The following policies are of relevance:

Policy 48: Accessibility of Out of Centre Retail Developments - proposals for major out of centre retail developments will require to incorporate measures to encourage convenient access by means other than the car. The following specific measures will be sought:

- bus access involving weather protected stances incorporating timetable information and linked to the pedestrian route network within the site;
- segregated, weather protected, pedestrian routes linked to the City's wider footpath network; and
- weather protected cycle storage facilities accessed via segregated cycle routes linked to the City's wider cycle route network.

Where appropriate the provision of free home delivery services will be encouraged.

The incorporation of these measures into existing developments will also be encouraged and pursued.

Policy 55: Urban Design - for all new developments the emphasis will be on design quality and the City Council will seek the creation of new public places and points of interest which incorporate architectural and landscape features and reflect and enhance historic street layouts, significant views and vistas. All development should respect the setting of listed buildings.

The City Council require the use of Design Statements for planning

applications or listed building applications for new buildings or extensions to existing buildings on significant sites.

All development will, in its design and layout, be expected to contribute to an environment which is safe and accessible to all.

Policy 57: Visual Impact On Major Routes - the City Council in association with other agencies will seek to further the implementation of the major routes concept, subject to finance being available, where the objectives will be to:

- improve the image of Dundee;
- create a memorable image on arrival to Dundee that will have an imposing presence both day and night; and
- improve the quality of the environment. In relation to visual amenity, highly visible primary frontages, and certainly those within 25m of the kerb line (depending on local circumstances) will be required to abide by the guidelines within the Ambassador Route Design Guide.

Policy 79: Contaminated Land - when considering development proposals involving sites where the presence of contamination is suspected, the City Council will require applicants to:

- submit the results of site investigations which assess the nature and extent of any contamination which may be present; and
- where contamination is found to be present, notify the authority of the remediation measures proposed to render the site fit for its intended use including all receptors.

Appropriate conditions and/or legal agreements may be applied to ensure that such measures are implemented to the satisfaction of the Council.

Alternatives to the uses permitted by the Local Plan may be supported on contaminated sites in instances where evidence can be presented to establish that the severity of contamination is such that the site cannot be economically developed for its allocated use. In such instances the City Council will require to be satisfied that:

- clear evidence has been provided to establish the nature and extent of the contamination present;
- an economic appraisal has been provided which demonstrates that development based on the Local Plan allocation is not economically feasible due to the remediation requirement;
- justification for the proposed alternative to the Local Plan allocation is supported by economic and market appraisals which include the assessment of other potential options; and
- the proposed alternative use can be justified in relation to other policies of the Local Plan.

Policy 81: Pedestrians - all developments should consider ease and safety of pedestrian access as a priority over all other modes. In particular, the implementation of measures designed to improve pedestrian safety, including footpath/footway provision and improvements, upgrading of streetlighting, provision of improved crossing points, construction of suitable traffic calming measures, and the reduction of speeds to 20 m.p.h. or less in residential areas where appropriate will be encouraged. In addition, the Council will welcome proposals for facilities which will promote increased pedestrian activity on and around development locations. The establishment and use of paths and access routes for both recreation and commuting purposes is encouraged.

Policy 82: Cycling Facilities - Dundee City Council will support the provision of both on and off- road facilities for cyclists. In particular it will:

- continue to promote and improve recreational cycling opportunities with emphasis on enhancing the existing open space network, the Green Circular, National Cycle Network and North Sea Cycle Route as opportunities arise;
- require measures to improve and protect conditions for cyclists in the design of all new or upgraded roads;
- support the development of strategic cycle routes, for commuting and recreational needs;
- promote the development of green access corridors and other

secondary routes linking into the main and strategic network, particularly links with schools, transport infrastructure, workplaces and leisure facilities; and

- require the provision of appropriate cycle paths and cycle parking facilities in development proposals.

Policy 83: Bus Transport - Dundee City Council will promote:

- the introduction of bus priority measures in accordance with the need to increase the attractiveness of bus services to the public and contribute to a reduction in traffic congestion. This will concentrate on the City Centre arterial routes and the crossing points on the Kingsway;
- the establishment of well sited, high quality passenger waiting and information facilities including bus stops, stances and shelters, particularly at retail and other employment locations. Such provision should relate well to the surrounding road network, and local pedestrian desire lines; and
- the construction of a new road exclusively for bus use between Ninewells Hospital, the Medipark and the existing Dundee Technology Park.

Policy 86: Road Network - Dundee City Council will:

- promote the establishment of walking, cycling and public transport priority measures on or adjacent to all arterial routes;
- in conjunction with Angus Council, implement the upgrading of the A92 eastwards from Claypotts junction to improve road safety;
- in conjunction with the Scottish Executive, promote through the development process the upgrading of the Kingsway junctions at Swallow and Myrekirk Road to assist development in the west of Dundee and bring forward improvements to the operation of the remaining trunk road network within Dundee to permit the effective movement of public

transport, pedestrians and cyclists;

- not permit development on the East and West Arterial routes where this would prejudice the potential future upgrading of these routes; and
- implement the improvement of the North West Arterial for the benefit of public transport, pedestrians and cyclists.

### **Scottish Planning Policies, Planning Advice Notes and Circulars**

Scottish Planning Policy - the Scottish Planning Policy document is the statement of the Scottish Government's policy on important land use planning matters. This document contains specific subject policies in relation to several topics including transport.

The transport section promotes sustainable development in appropriate locations and seeks to ensure that development is well located in terms of public transport and pedestrian and cycle routes.

### **Non Statutory Statements of Council Policy**

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

### **SUSTAINABILITY ISSUES**

The proposal involves the re-use of a brownfield site located within the Wester Gourdie Industrial Estate. There are no specific sustainability policy implications arising from this application.

### **SITE HISTORY**

Proposals were submitted as an outline planning application to this Council on 22 July 2009. Outline applications relate to those made before 3 August 2009. In cases such as this where the decision was issued after that date it results in a grant/refusal of planning permission in principle in accordance with the new provisions in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

Planning permission in principle was granted on 18 January 2010

(09/00427/OUT). It established the principle of developing the site as a food store and petrol filling station, illustrating a layout, means of access and amendments to the road network. It is the subject of a legal challenge which is outstanding at the time of writing this report.

Subsequently, a further application for the Approval of Matters Specified in Conditions (11/00198/APPCON) of the above planning permission in principle was submitted on 21 April 2011 seeking approval in relation to Conditions 31 and 32 of 09/00427/OUT. This appears elsewhere on this agenda.

A separate application for full planning permission for a retail development(10/00750/FULM) was submitted on 10 December 2010. It has not yet been determined.

## **PUBLIC PARTICIPATION**

The Statutory Neighbour Notification procedure was carried out and the application was also advertised in the local press under the terms of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

Although this application relates to a major class of development, it is purely to approve matters specified in the conditions of the planning permission in principle. Therefore, statutory pre-application consultation was not required in this instance.

In total four letters of objection were received. However the matters raised relate to the principle of development including the means of access which have already been established and therefore they cannot be taken into consideration in the determination of the current application for approval of matters specified in conditions. This is because the approval of planning permission in principle established that the general form and layout of the access to the store should be in accordance with a particular layout drawing. Such issues cannot be revisited under the terms of the current application.

## **CONSULTATIONS**

- 1 Transport Scotland, Trunk Roads Network Management -

Transport Scotland has indicated that they have no objections to the approval of the application

- 2 BEAR Scotland - they provided comments in relation to each of the matters specified in conditions currently being applied for relating to issues under the control of or pertaining to BEAR that were attached to the grant of planning permission in principle. They have advised as follows:

Condition 7 - the information provided is sufficient to allow the condition to be satisfied.

Condition 9 - the information provided is sufficient to allow the condition to be satisfied.

Condition 10 - a report on the 'Condition of Pedestrian Underpass and Recommendations for Upgrading' dated August 2010 has been received. The recommendations in the report are acceptable. Detailed technical proposals shall still require to be agreed with BEAR.

Condition 12 - details of the proposed boundary treatment have been submitted and are acceptable in terms of type and location.

- 3 The Head of the Council's Environmental Health and Trading Standards has advised as follows:

Contaminated Land - no objection subject to the imposition of a condition restricting the commencement of development until the further investigation and risk assessment proposed in the submitted Stage 1 Desk Study and the partial Stage 2 Site Investigation Study are completed and a remediation strategy to deal with contamination at the site has been submitted to and approved in writing by the planning authority. In addition a further condition is requested that requires verification of the full implementation of the remediation strategy is submitted to and approved in writing prior to the first occupation of any unit on the site.

Air Quality - Environmental Health and Trading Standards have reviewed the Air Quality Assessment submitted in support of the application, including the Addendums to the report.

The applicants have carried out an assessment of the air quality impacts of the proposed supermarket at 127 receptor locations close to roads that are likely to experience an increase in traffic as a result of the development.

Of the 127 receptors studied 74 are estimated to receive an "imperceptible" rise in Nitrogen Dioxide (NO<sub>2</sub>) concentrations, with 50 receiving a "small" increase, and 3 receptors a "medium" increase. All of the resulting concentrations at receptors are predicted to be below the annual mean air quality standard for nitrogen dioxide (40 µg/m<sup>3</sup>). The significance of the increases are classed as "negligible" at 125 locations. At 2 locations (Receptors 58 and 100) to the south east of the Kingsway/Myrekirk roundabout the "medium" increase in NO<sub>2</sub> concentrations "with development" is classed as "moderate adverse" because the predicted concentrations rise to "just below" the NO<sub>2</sub> annual mean air quality standard.

In relation to fine particulate matter (PM<sub>10</sub>) 108 receptors are estimated to receive an "imperceptible" rise in PM<sub>10</sub> concentrations with the remaining 19 receiving a "small" increase. Of these 19, the annual mean air quality standard for PM<sub>10</sub> is predicted to be breached at 2 receptor locations (Receptors 58 and 100) to the south-east of the Kingsway/Myrekirk roundabout as a result of the development. All 19 "small" increases in PM<sub>10</sub> concentrations are classed as "slight adverse" impacts.

PAN 51 refers to the National Society for Clean Air (NSCA) Document "Development Control: Planning for Air Quality (2006) as an example of best practice guidance for planners on how to deal with planning applications with air quality issues. This document has since been updated by the Environmental Protection UK (new name for NSCA) document "Development Control: Planning for Air Quality" (2010). According to Figure 1 on page 23 of the EPUK guidance, if a development "leads to a breach" of an air quality objective, as is predicted here, then it is judged to be a high priority consideration in planning terms.

The whole of Dundee has been declared an Air Quality Management Area (AQMA) for Nitrogen Dioxide and PM<sub>10</sub> (Annual mean standards).

Paragraph 4.16 of the EPUK guidance advises that:

"...not all planning applications for developments inside or adjacent to AQMAs should be refused, even if the development would result in a deterioration of local air quality, as such an approach could sterilise development. The declaration of an AQMA therefore does not mean that there will be a complete ban on development within that area. Rather, it means that greater weight must be given to the consideration of air quality impacts and their mitigation..."

Table 7 of the EPUK guidance (page 22) gives recommendations for how to deal with applications where air quality is judged to be a high priority consideration. These recommendations include:

"Ensure that measures to minimise "high priority" impacts are appropriate in the proposal. Recommend strengthening the measures if appropriate. Consideration may also be given to compensation/offsetting."

The applicants consider that:

"the revised layout of the carriageway which increases the available lanes at the roundabout from 2 to 3 delivers traffic management benefits across the roundabout by:

- allowing a more free flowing left turn to Myrekrik Road (southbound);
- allowing a more free flow through movement across the roundabout;
- providing a specific right turning lane across the roundabout for access to the proposed ASDA store; and
- reducing the start-stop movement of traffic across two lanes through the provision of 3 lanes.

It is intended to comment on the content of these comments in the Observations Section of the report.

## **OBSERVATIONS**

### **Statutory Requirements**

#### **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 application under consideration seeks approval of the details in relation to a number of matters specified in conditions relating to the planning permission in principle. Information has been submitted in respect of each of the conditions and the issues to be addressed fall into three topic areas; Design and appearance; Transportation and accessibility issues and Contaminated Land.

### **Design and Appearance**

Dundee Local Plan Review 2005

Policy 55: Urban Design

Policy 57: Visual Impact On Major Routes

The above Policies from the Dundee Local Plan Review relate to the requirements contained within condition 1 for which approval is now sought. As discussed in relation to the description of the proposal, the condition in this regard is worded as:

- 1 Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building (s) and the landscaping of the site.

The applicants have submitted detailed elevations and layouts for the food store and associated proposals. The massing of the nearby industrial units has been used as a guide for the height of the new store so as to ensure the building sits well within its architectural context. The design materials have been chosen to include an aluminium standing seam roof, grey curtain walling system and white composite wall cladding. Vertically laid timber cladding is to be used on the main facades. The use of timber cladding helps to soften the appearance of the building and their positioning on the west and east gables helps to break up the visual appearance of the large building. Information regarding the finish to the timber has been submitted to indicate that it can be painted or stained. Discussion with the applicant regarding the weathering of the cladding suggests that the cladding shall be finished in a light stain finish which shall be the subject of a further condition to seek confirmation of the exact specifications and colour.

The majority of existing landscaping and trees on site are to be retained.

There is a low level wall and fence to the southern boundary which incorporates protected cherry trees. Plans indicate that an area of landscaping to the west boundary shall be introduced to provide a visual buffer. In addition to this a central pedestrian walk way is to be provided in the centre of the car park area which will be strengthened by the use of tree planting along it. It is considered that this will help to break up the expanse of the car park area and provide visual interest.

It is considered that the scale, massing, finishing materials and landscaping proposed are of an acceptable standard and shall enhance the nearby Ambassador Route formed by the Kingsway dual carriageway. The types and colour palette of materials shall help to create a positive image of the city.

The attaching of Condition 1 to 09/00427/OUT has provided the Council with the opportunity to give due consideration to the above matters and the information submitted in support of Condition 1 is considered to be acceptable. It is also considered to be in accordance with the requirements of Policy 55 (Urban Design) and Policy 57 (Visual Impact on Major Routes).

### **Transportation And Accessibility Issues**

Relating to Conditions 7,9,10, 12,13,14,15,16,17,18,20,21,22,25 and 26.

Dundee and Angus Structure Plan 2001-2016 - Transport Policy 4: Development Location.

Dundee Local Plan Review 2005

Policy 48: Accessibility of Out of Centre Retail Developments.

Policy 81: Pedestrians.

Policy 82: Cycling Facilities.

Policy 83: Bus Transport.

Scottish Planning Policy (SPP).

The proposed development affects the Kingsway Trunk Road by virtue of the proposed improvements to the roundabout at the Kingsway West/Myrekirk Road roundabout.

The applicants submitted a Transport Assessment (TA) in support of the proposed development at planning

permission in principle stage which included, amongst other things, improvements to the Kingsway West/Myrekirk Road roundabout. The TA concluded that the proposed infrastructure improvements to the A90(T) Kingsway West/Myrekirk Road roundabout to a traffic signal controlled junction along with the willingness of Travel Dundee to route bus services to the proposed development will result in the provision of an accessible site in terms of walking, cycling and Public Transport travel with links to surrounding residential catchments. The implementation of a Travel Plan in addition to these measures is likely to result in a successful sustainable development.

The TA also concludes that the upgrade of the junction will offer improvements in terms of safety which could reduce the number of accidents that occur. The upgrade of the junction associated with the development will therefore benefit both the local and trunk road network and the users thereof.

As stated, accessibility issues were assessed in detail in the Transport Assessment that was submitted to accompany the previous application for Planning permission in principle. This Assessment demonstrated that the site is accessible by a choice of transport modes other than by private car. In addition, the TA also assessed proposed links to existing footpaths and cycle ways in the area. As a result, appropriate conditions were attached to the grant of planning permission in principle permission requiring the submission and approval of, amongst other things, bus service details, pedestrian crossing details and footway/cycleway details prior to the opening of the store. Details have now been received in relation to each the particular conditions for which approval is now sought.

Condition 16 requires that an access to the site must be agreed prior to the commencement of development and that it should be provided prior to the occupation of any part of the development. In order to seek agreement of the details, drawings have been provided to demonstrate that access to the site is to be taken from a new roundabout which shall be, created taking the form of a 4-arm roundabout from Myrekirk Road. The service access to the site is segregated

from the customer entrance and is positioned further north of the site but also from Myrekirk road. The details regarding the customer and service access are considered to be acceptable in relation to the requirements of Conditions 16 and 21 but the applicants shall still be required to comply with the remaining parts of the condition in relation to the timescales for implementation.

A Travel Plan was submitted in support of the condition 9 which looked at issues relating to store accessibility by means of pedestrian, cycling, public transport and private car. It then goes on to put forward proposed actions and measures to encourage walking, cycling and use of public transport as a means of access to the store. The details that have been submitted are considered to be acceptable and contribute towards the aims of Policy 48 which seeks measures to encourage convenient access by means other than the private car.

In addition, in relation to Condition 10 the applicants provided a report on the condition of a pedestrian underpass beneath the A90 Kingsway West which requires to be upgraded to allow for safe and convenient pedestrian access to the site. The report has put forward a schedule of remedial works including lighting, repainting and landscaping works. It is considered that these works are acceptable and will contribute to the accessibility of the development for pedestrians. Therefore the details in relation to Condition 10 can be agreed. The condition will of course only be fully satisfied upon completion of the works within the specified timescales and in accordance with these details.

It is proposed that the site shall be bound by the existing low wall and fencing in addition to the cherry trees identified to be retained. There shall be an additional pedestrian access point to the southern boundary created which then requires the provision of a highway guarding rail to the edge of the carriageway to ensure pedestrian safety. This has been proposed in accordance with these requirements and shall help to minimise the risk of pedestrians and vehicles gaining uncontrolled access to the trunk road with the consequential risk of accidents and fulfils the requirements in respect of the details required for Condition 12 in this regard.

Other footways in the area are to be linked to existing routes to ensure maximum pedestrian accessibility to the site. Pedestrian crossing points have been proposed in the form of dropped kerbs to Myrekirk Road North and within the Charleston Housing Area to contribute towards the accessibility to the site by pedestrians. It is considered that these measures shall ensure that there is adequate pedestrian and cycle routes to the proposed development site and shall promote sustainable travel to and from the development as required by Conditions 13, 25 and 26. The details required by these conditions can therefore be agreed.

The proposed car parking layout will be capable of accommodating up to 570 car parking spaces which may reduce in number slightly to allow for the planting of landscaping trees to the central pedestrian route. In order to satisfy the requirements of Conditions 18 and 20 a drawing has been provided to demonstrate that buses will be capable of entering and leaving the site in a safe manner. It is not considered necessary at this time for there to be a bus stance within the store car park area but the drawings indicate that this will be possible if considered necessary in the future.

Furthermore, In relation to the accessibility of the site by public transport required by Conditions 18 and 20, there is a willingness of Travel Dundee to route bus services to the proposed development and there is therefore provision for a bus lay-by within the application site on the east side of Myrekirk Road North. In addition, the proposed location for a bus pole and associated road markings is considered to be acceptable. It is considered that the provision of a bus service to the site in this way will ensure that the site is accessible by public transport to an acceptable standard. It is therefore considered that the details submitted in respect of Conditions 18 and 20 can be agreed. The time periods for implementation specified in the conditions shall still require to be fulfilled accordingly.

Similarly, the applicants have submitted a layout of the store to show an internal access road which shows the layout will allow the passage of public transport through the site. It has been assessed to ensure this is possible and found to be acceptable. This therefore satisfies the details required



by Condition 22. The timescales for implementation shall remain to be satisfied.

In order to reduce the potential for queuing time to the new traffic system on the dual carriageway as sought by Condition 14, it is considered necessary that there should be widening to create an additional lane on Myrekirk Road South at the junction of Myrekirk Road and Kingsway West. This will help to alleviate the potential for queuing in this location and assist with the efficiency of public transport accessibility to the store. A suitable drawing to show these details has been submitted in this regard and the details required can therefore be agreed. As with the majority of the conditions the timescale for implementation shall remain to be satisfied.

For similar reasons to cope with additional traffic and assist the flow of public transport, Condition 17 requires the widening of Myrekirk Road North. A suitable drawing has been provided to demonstrate how this could be achieved and therefore the details in regard of Condition 17 are considered to be acceptable. The timescale for implementation as stipulated in this condition shall remain applicable.

It is also proposed to provide covered cycle storage for customers which will be directly underneath the front store canopy and covered cycle storage for employees which will be housed in a cycle store close to the staff entrance for convenience.

In accordance with the requirements of Condition 15, a CCTV system is to be provided prior to the occupation of any part of the development and for this purpose details regarding the location within the A90 Kingsway/Myrekirk Road junction island have been shown. The CCTV camera has been located to provide as wide as possible view of the road network to ensure full supervision of the operation of the traffic signals and also that traffic conditions are monitored. The information submitted in respect of Condition 15 is considered to be acceptable but further details are needed to provide all of the details sought to satisfy the requirements of the Condition. Therefore, it is considered that this particular condition cannot be approved at this time.

It is considered that the detailed proposals for the store in this regard

will ensure convenient access to the store by means of car by virtue of the amended road layout and the convenient access to the store by means of public transport, bicycle and for pedestrians.

It is therefore considered that the details submitted in respect of the conditions for which approval is sought do not breach any of the requirements contained with the above Policies of the Dundee Local Plan Review 2005 in relation to the accessibility of out of centre retail developments, pedestrians, cycling facilities and bus transport issues and that the information provided meets the requirements of the Conditions and accompanying reasons for which approval is sought in relation to transportation issues.

### **Contaminated Land**

Policy 79 (Contaminated Land) - in sites with suspected contaminated land this policy requires applicants to provide details of site investigations assessing the extent of contamination and identify appropriate remediation measures. A Stage 1 Site Investigation was undertaken and submitted in support of the planning permission in principle application. This identified that there is a significant risk of contamination on the site and makes a number of recommendations for additional action. A partial Stage 2 Site Investigation Study was also submitted to accompany the planning permission in principle application.

The applicants have submitted additional information in relation to Condition 27. However, at this time, there is remaining ground investigation which cannot be submitted until after the existing NCR building has been demolished. That investigation needs to be completed and approved before any new building work can commence. It is also possible that a remediation statement and ultimately a verification report will be required and approved before the condition can be fully discharged.

The terms of this application do not mean that the condition is discharged but that the information submitted to date is acceptable and can be agreed. The information at this time is considered to be acceptable but the applicants shall still be required to satisfy the remaining requirements of condition 27 to allow the further works

to be progressed in the normal way. The matters specified in Condition 27 are not therefore approved.

Taking the above into consideration, the information to support the application to approve the conditions listed above is considered to be acceptable and do not contravene the aims of the above listed policies of the Dundee Local Plan Review 2005.

## **Other Material Considerations**

### **Air Quality Issues**

Air Quality is a material consideration in determining applications for planning permission when the development may give rise to air quality issues. Air quality is relevant to Condition 16 in that the provision of a suitable access required by the condition was necessary to ensure that there is an adequate junction formed to minimise the impact of traffic pollution at the nearby nursery. Conditions 31 and 32 attached to 09/00427/OUT required the submission of Air Quality information as a means to inform the access required by Condition 16. Conditions 31 and 32 are the subject of a separate application which can be found elsewhere on this agenda.

It was considered that the greatest pollution impact could be in the vicinity of some of the most vulnerable receptors. Including the nearby nursery and residential properties. The applicants therefore prepared and submitted an Air Quality Assessment to accompany this application to approve matters specified in conditions and as required by Conditions 31 and 32 of 09/00427/OUT as discussed above.

As discussed under the terms of the consultation advice received from the Environmental Health and Trading Standards Department, the applicants carried out an assessment of the air quality impacts of the proposed supermarket at 127 receptor locations close to roads that are likely to experience an increase in traffic as a result of the development.

In addition, in relation to the consultation response from the Environmental Health and Trading Standards Department, and taking due cognisance of the information submitted, the submitted Air Quality Assessment considers that the layout of the roundabout, provides suitable

mitigation of the air quality impacts by enabling smoother traffic flows and more turning options to improve traffic management in the area including at the location close to receptors 58 and 100.

Further to the above Environmental Health consider that additional mitigation measures, such as electric vehicle charging points should be incorporated into the development scheme by way of the attaching of conditions.

It is considered that this issue relates to the impact of the development in air quality terms as a whole and is therefore discussed in detail in relation to the other application on this agenda (11/00198/APPCON) relating to Conditions 31 and 32. Condition 16 relates to the provision of the access to the store from Myrekirk Road only.

### **Existing Planning Permission in Principle**

Proposals for a food store and petrol filling station were submitted as an outline planning application to this Council on 22 July 2009. Planning permission in principle was granted on 18 January 2010 (09/00427/OUT). This application established the principle of developing the site as a foodstore and petrol filling station, illustrating a layout, means of access and amendments to the road network.

Permission (09/00427/OUT) is the subject of a legal challenge which is outstanding at the time of writing this report. The effect of Tesco Stores Ltd's appeal being successful would be that the Council's decision and the planning permission would be quashed. There would be no basis for this application in relation to the approval of matters specified in conditions because there would be no planning permission in principle.

However, the decision to grant planning permission in principle (09/00427/OUT) remains valid unless and until it is successfully challenged and there is therefore no restriction on the Committee considering the current application.

### **Design**

For the reasons given above in relation to the requirements of Condition 1, the design of the store is such that the scale, massing, finishing materials and landscaping proposed are of an

acceptable standard and shall enhance the nearby Ambassador Route formed by the Kingsway dual carriageway. The high quality of materials and the subtle and colour used in the finishings shall help to create a positive image of the city and the retention of a large number of the protected trees that currently line the edge of the site shall help to integrate the new building into the area.

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### **CONCLUSION**

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It is concluded from the foregoing that the details provided are acceptable such as to approve certain matters specified in conditions 1, 7, 9, 10, 12, 13, 14, 16, 17, 18, 20, 21, 22, 25 and 26 attached to 09/00427/OUT. As discussed, the timescales for implementation as specified in each of the conditions shall remain to be satisfied. The details provided in respect of the above conditions are considered to be consistent with the relevant Development Plan Policy associated with the details provided. As noted in the Observations section of the report, Conditions 15 and 27 have not been satisfied at this time.

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### **RECOMMENDATION**

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It is recommended that approval be GRANTED subject to the following condition:

- 1 Prior to the commencement of development, full details for the timber finishings to the store elevation shall be submitted to and approved in writing. For the avoidance of doubt the information shall confirm the type, orientation and finish to the timber. The scheme shall thereafter be completed in full accordance with the agreed details.

### **Reason**

- 1 To ensure a satisfactory standard of appearance.