

Variation to Condition to Permit Mezzanine Floor at Kingsway West Retail Park

KEY INFORMATION

Ward Lochee

Address

Kingsway West Retail Park
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Dundee

Applicant

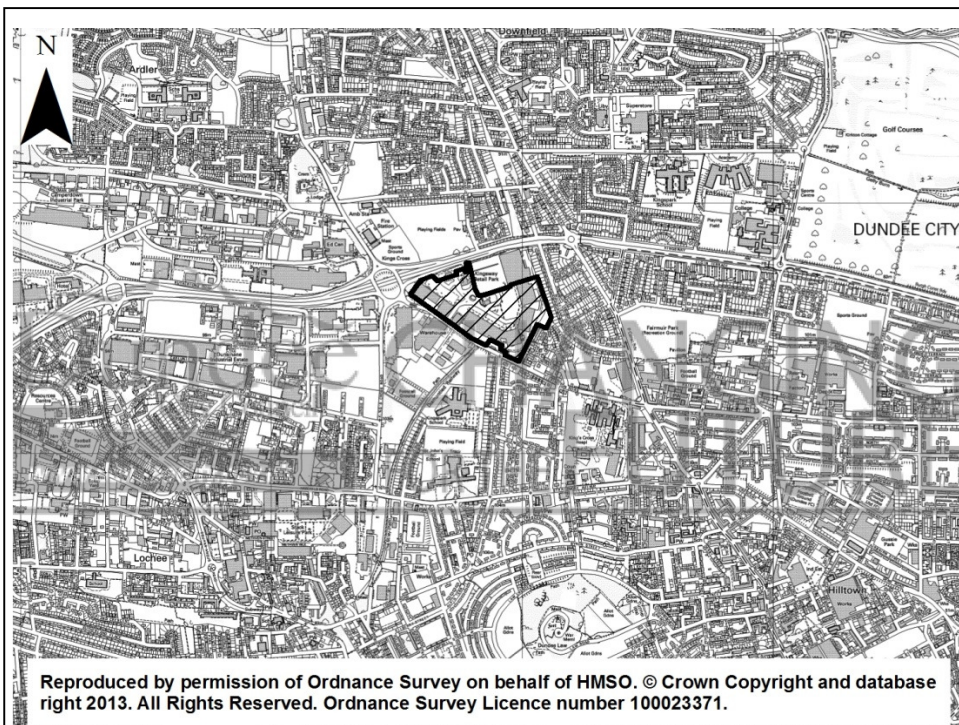
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Registered 5 Dec 2013

Case Officer A Ballantine



SUMMARY OF REPORT

- This application seeks planning permission under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) for non-compliance with Condition 3 of planning application ref: 99/24198/D to install a mezzanine floor in Unit B2.
- Policy 24 (Location of New Retail Developments) of the Dundee Local Development Plan is relevant in the determination of this application. The proposal is in accordance with this Policy.
- The statutory neighbour notification procedure was carried out. No letter of objection or representation have been received.
- In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee as the proposal falls within the meaning of a Major planning application as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=MXJCGFGC06600>.

RECOMMENDATION

The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is recommended that the application for “non-compliance with Condition 3 of planning permission 99/24198/D to install a mezzanine floor in Unit B2” is recommended for APPROVAL subject to conditions.

1 DESCRIPTION OF PROPOSAL

1.1 An application under section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) has been submitted for non compliance with Condition 3 of planning permission 99/24198/D to install a mezzanine floor in Unit B2, Kingsway West Retail Park. Condition 3 of the 99/24198/D permission states that "the increase in development area content shall be no greater than 12,129m² of Class 1 Non-food gross retail floorspace". The application is applying for non compliance with this condition to install a mezzanine floor in Unit B2 to allow an additional 665m² of retail floorspace to be created at the unit, which currently has a floorspace of 952m². The addition of a mezzanine floor in Unit B2 would provide a total of 1,617m² of gross floorspace. The agent has indicated within the accompanying supporting statement that the proposed enlarged unit is to be used by Harveys as the unit that they currently lease (Unit 3B) is too large with a total gross floorspace of 2140m².

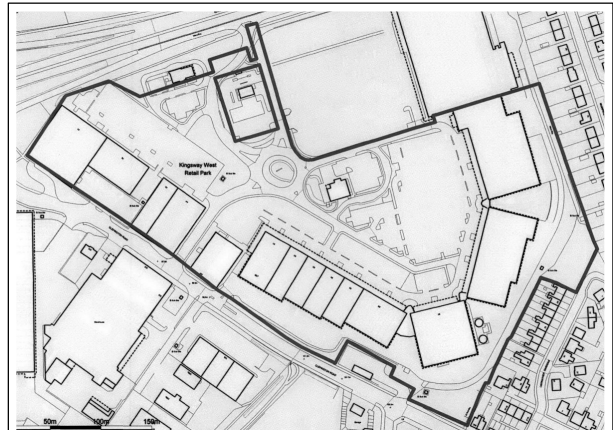


Figure 1 – Site Plan

1.2 As part of the above planning permission (ref: 99/24198/D), a Section 75 Agreement was concluded between the applicants and the City Council which restricts the range of goods to be sold within the Park.

2 SITE DESCRIPTION

2.1 The application site is Unit B2, one of a number of retail units within the existing Kingsway West Retail Park. The unit itself is a large insulated clad and brick building with parking to the front and servicing to the rear. The unit is located to the south west of the retail park, as part of Phase 2 of the development, and forms one of a number of units which are used for retailing purposes. A number of the units within the Retail Park have installed mezzanine floors to create additional floorspace. The site is designated as a Commercial Centre in the Dundee Local Development Plan and has restricted goods ranges as part of the designation.



Figure 2 – Application Site

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN

Policy 24: Location of New Retail Developments.

- 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 The following applications are of relevance:

- 99/24198/D - application for planning permission for Redevelopment of Kingsway West Retail Park to provide 13/14 retail warehouse units, a fast food outlet, associated car parking, access, infrastructure and landscaping and the re-cladding of existing retail warehouse units. Approved subject to conditions on 30 September 2002. Condition 3 of this permission states "the increase in development area content shall be no greater than 12,129m² of Class 1 Non-food gross retail floorspace";
- 08/00762/FULL - application for Variation of Condition 3 of Planning Permission D24198 to Allow for Additional Floorspace at Unit B8, Kingsway West Retail Park - approved subject to conditions;
- 09/00631/FULL - application for Variation of Condition 3 of Planning Permission D24198 to Allow for Additional Floorspace at Unit B6, Kingsway West Retail Park - Approved subject to conditions;
- 10/00352/FULL - application for Variation of Condition 3 of Planning Permission D24198 to allow for additional floorspace at Unit B3, Kingsway West Retail Park – approved; and
- 10/00353/FULL - application for Variation of Condition 3 of planning permission D24198 to allow for additional floor space at Unit B1, Kingsway West Retail Park - approved.

5 PUBLIC PARTICIPATION

- 5.1 No public comments were received.

6 CONSULTATIONS

- 6.1 No consultations were received.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Act 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

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

DUNDEE LOCAL DEVELOPMENT PLAN

- 7.2 **Policy 24: Location of New Retail Developments** – requires proposals for new or expanded retail developments to establish that there will be no detrimental impact on the vitality and viability of the City Centre, District Centres, and Commercial Centres.
- 7.3 The proposal is to increase the floorspace of an existing unit at Kingsway West through the installation of a mezzanine floor. Planning permission is required as a result of Condition 3 of planning permission 99/24198/D which limits the gross floorspace at this part of the retail park. Policy 24 seeks to assess a proposal in terms of its location and impact on the vitality and viability of existing retail centres, including the City Centre and District Centres. Given it is located within an existing Commercial Centre it would not raise any significant issues in terms of Criteria 1, 3 and 4 of the Policy.
- 7.4 It is considered that individually it is unlikely this increase in floorspace (665m²) would have a significant detrimental impact on the vitality or viability of any of the existing retail centres. The increase in floorspace involves the addition of an internal mezzanine floor within an existing retail unit and the size, scale and nature of this additional floorspace is not considered to have a significant affect on the Local Development Plan strategy in support of the City Centre and District Centres. It is therefore considered that it would not raise any significant issues in respect of Criterion 2.
- 7.5 Consideration needs to be given to the potential cumulative impact that such increases could have on the vitality and viability of other commercial centres, the redevelopment of The Stack and the potential extension to the Gallagher Retail Park where the Local Development Plan is encouraging future retail warehousing development. Taking this into account, whilst the increase in floorspace throughout Kingsway West requires to be monitored, this application in itself will not have a significant affect on the Local Development Plan's citywide retailing strategy and as such is considered to be acceptable.
- 7.6 **The proposal complies with Policy 24 of the Dundee Local Development Plan.**

OTHER MATERIAL CONSIDERATIONS

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

A - CIRCULAR 4/1998 - THE USE OF CONDITIONS IN PLANNING PERMISSION

- 7.7 The purpose of this circular is to provide guidance on the use of conditions in granting planning permission. Circular 4/1998 stipulates that while the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. The Circular demonstrates that conditions that are fair, reasonable and practicable satisfy 6 tests:
- necessary;
 - relevant to planning;
 - relevant to the development to be permitted;
 - enforceable;
 - precise; and
 - reasonable in all other respects.

- 7.8 It is considered that the condition as originally imposed meets all these tests. It seeks to control extensions to the floorspace of this retail park. The proposed non-compliance with Condition 3 of application ref: 99/24198/D to install a mezzanine floor in Unit B2 does not undermine the necessity, purpose, or relevance of the original condition. There have been a number of applications (see site history) to “vary” this condition to allow the installation of mezzanine floors for other units within the retail park and these have been considered to be acceptable based on the fact that the proposals have been modest in scale and nature and have therefore not been determined to have a detrimental impact on the vitality and viability of other retailing centres, including the City Centre and District Centres. This application is similar in size and scale to those previously approved and it is considered the proposal will not undermine the necessity, purpose or relevance of the original condition as there will be no significant affect on other retailing centres. In this instance, the proposals adhere to the requirements of Circular 4/1998.
- 7.9 **It is concluded from the foregoing that the material considerations support the approval of planning permission.**

8 CONCLUSION

- 8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

- 9.1 It is recommended that consent be GRANTED subject to the following condition:
- 1 Condition 3 of planning permission 99/24198/D is amended to the following: the increase in development area content shall be no greater than 16,990m² of Class 1 Non-food gross retail floorspace. This total includes the additional floorspace approved by applications 08/00762/FULL, 09/00631/FULL, 10/00352/FULL and 10/00353/FULL and the amount sought in the current application.

REASONS

- 1 In order to control the total additional floorspace at Unit B2 in the interests of the Council's citywide retailing strategy and to minimise interference with the flow and safety of trunk road traffic.