

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 04 OCTOBER 2016

PLANNING APPLICATION - LAND AT PATHHEAD FARM FORFAR ROAD KIRRIEMUIR

GRID REF: 338905 : 753354

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with application No. 16/00452/FULM for application under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) to allow for the demolition of Newton Cottage and erection of a supermarket, associated parking, landscaping and improved road layout including access without compliance with the timescales imposed by condition 1 of planning permission ref. 11/00150/PPPM in order to allow a further three years in which to submit matters specified in conditions application/s for Guild Homes (Tayside) Ltd on land at Pathhead Farm, Kirriemuir. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application is approved conditionally for the reason given at Section 10 in this report.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- We have a sustainable economy with good employment opportunities
- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. INTRODUCTION

3.1 At its meeting on 1 February 2012 Angus Council resolved to grant planning permission in principle (Appn: 11/00150/PPPM refers) for the demolition of Newton Cottage and erection of supermarket, associated parking, landscaping and improved road layout including access on land at Pathhead Farm Kirriemuir (Report No 85/12 refers). Planning conditions and the terms of a planning obligation were subsequently approved by Council at its meeting on 22 March 2012 (Report No 216/12 refers). The conditions as approved by Council are reproduced as Appendix 2.

3.2 Condition 1 of that permission indicated that no development could be undertaken until further approval for matters specified in that condition had been submitted to and approved in writing by the Planning Authority. The condition allowed a period of three years for submission of applications for approval of those matters.

3.3 The applicant has now submitted an application under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). The application seeks permission to develop the land without complying with Condition 1 of planning permission ref: 11/00150/PPPM and specifically the limitations imposed by Section 59(2) of that Act (which relate to time allowed for

submission of further applications and the commencement of development). In this case the application proposes to vary the time limit conditions attached to the previous permission to allow additional time for the submission of further applications and for the development to commence.

- 3.4 For this type of application the legislation (Section 42) indicates that the planning authority must only consider the question of the conditions subject to which planning permission should be granted and if they decide that permission should be granted subject to the same conditions as detailed on the earlier permission, they shall refuse the application (Section 42(2)(b)). If they decide that planning permission should be granted subject to conditions differing from those previously attached to the permission, they shall grant planning permission accordingly (Section 42(2)(a)). The effect of granting permission for a Section 42 application is such that a new and separate permission exists, with any conditions attached as appropriate.
- 3.5 As was the case at the time of the original planning application, the majority of the application site is currently in agricultural use and is located to the north of the A926 Forfar road on approach to Kirriemuir to the west of Maryton. The remainder of the site is made up by a section of the A926 and Newton Cottage. The site amounts to approximately 3.2ha and is surrounded by agricultural land to the north and east. Residential uses are located to the west and northwest with the veterinary practice to the immediate northwest. The site's existing boundaries mainly comprise post and wire fences and some low level planting. Since the time of the original grant of planning permission, the allocated employment land at East Muirhead of Logie has been substantially developed and planning permissions are in place for the uptake of the entire 5ha site.
- 3.6 The original proposal constituted a major development under the provisions of the Town & Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 and the application therefore needs to be determined by Committee. At that time the applicant carried out statutory pre application consultation with the community, including a public exhibition, prior to submission of the application. There is no requirement for this process to be repeated in respect of an application submitted under S42 of the Planning Act.
- 3.7 The application has not been subject of variation or amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended). The application has been subject of neighbour notification and statutory advertisement.

4. RELEVANT PLANNING HISTORY

- 4.1 An application for planning permission in principle 11/00150/PPPM for Planning Permission in Principle for Demolition of Newton Cottage and Erection of Supermarket, Associated Parking, Landscaping and Improved Road Layout Including Access was determined as "Approved subject to conditions" on 14 June 2013.
- 4.2 The allocation of the site for retail development was considered by the Reporter appointed to undertake the Examination of the Proposed Angus Local Development Plan. In his report on the Examination the Reporter concluded that *'Overall, therefore, I support the identification of the land at Pathhead for a new supermarket. As a greenfield site and to ensure consistency with the rest of the plan, I consider that it should be allocated rather than identified as an opportunity site. However, given its out of town centre location, I consider it appropriate to control the introduction of open Class 1 retail use on the site and therefore restrict the allocation to that outlined in the permission granted, namely, suitable for the erection of a supermarket, associated parking, landscaping and improved road layout.'* Accordingly, the site has been incorporated with the development boundary for Kirriemuir and allocated for retail development in the adopted Angus Local Development Plan 2016.

5. APPLICANT'S CASE

- 5.1 As the application is submitted under S42 of the Town and Country Planning (Scotland) Act 1997 (as amended) supporting case for the supermarket proposal is the same as at the time of the original planning permission. The applicant has written to confirm that in the interim period since the original grant of planning permission, they have been actively seeking an operator for a

supermarket at the site. The applicant indicates that as a result of recent global economic conditions, they were unable to secure an operator for the site and that they now request a further three year period in which to submit further applications and an additional period of two years to implement the permission. The applicant notes that the Angus Local Development Plan states express support for the development of the site in accordance with planning permission ref: 11/00150/PPPM.

5.2 Application 11/00150/PPPM was supported by the following which is summarised at Appendix 3:

- Retail Statement
- Sustainability Statement
- Report on Pre-Application Consultation
- Traffic Impact Statement
- Landscape Appraisal and Design Statement

5.3 As the proposed development would involve the demolition of a traditionally constructed property, an up-to date bat survey was requested. The applicants have undertaken the necessary survey and the submitted report confirms that no bats were present in Newton Cottage and there is no evidence that it has been used as a roost. It was also confirmed that the building was not being used by nesting birds.

6. CONSULTATIONS

6.1 Consultees that were consulted on the original planning permission were re-consulted and were requested to indicate if there had been any change in circumstance that would have an effect on their original comments. The following provides an updated position.

6.2 **Community Council** - There was no response from this consultee at the time of report preparation.

6.3 **Angus Council - Roads** – No objection.

6.4 **Scottish Water** - There was no response from this consultee at the time of report preparation.

6.5 **Angus Council Environmental Health** - No objection.

6.6 **Angus Council - Transport Section** - There was no response from this consultee at the time of report preparation.

6.7 **Angus Council - Economic Development Unit** - There was no response from this consultee at the time of report preparation.

6.8 **Angus Council - Flood Prevention** - No objection to the principle of the timescale for the submission of a detailed drainage strategy being extended.

6.9 **Scottish Environment Protection Agency** - No objection.

7. REPRESENTATIONS

There were no letters of representation received in relation to the application.

8. PLANNING CONSIDERATIONS

8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

8.2 The development plan for the area comprises:-

- TAYplan (Approved 2012)
 - Angus Local Development Plan (Adopted September 2016)
- 8.3 In this case the application site is specifically allocated in the Angus Local Development Plan 2016 for a development comprising a supermarket, associated parking, landscaping and improved road layout in accordance with planning permission ref: 11/00150/PPPM (allocation K4 refers). Accordingly the policies of the Angus Local Development Plan form the basis for the consideration of the proposal. The relevant policies are reproduced at Appendix 4.
- 8.4 As advised above, the current application is made under Section 42 of the above Act as it constitutes an application to develop land without compliance with conditions previously attached to planning permission 11/00150/PPPM. For an application made under Section 42 the planning authority typically must only consider the question of the conditions subject to which planning permission should be granted, however, Government guidance does indicate that this does not preclude consideration of the overall effect of granting a new planning permission in some cases.
- 8.5 In this case application has been made to undertake the development without complying with the condition that deals with timescales for submission of applications for approval of matters specified in conditions that was attached to previous permission. Granting approval of this application would effectively allow a renewal of the existing planning permission in principle and a further period for submission of applications for approval of the detail of the development and subsequent implementation of the permission.
- 8.6 In considering whether to extend the time limits it is relevant to have regard to the development plan and to any other material impacts that could arise by allowing a longer period for commencement of development.
- 8.7 Circular 3/2013 'Development Management Procedures' indicates that planning authorities should consider carefully the nature of the development and issues such as the prevailing economic climate and reach a view whether the statutory default time limits are appropriate in the circumstances of the case or whether they should specify a more suitable period. In respect of the development that is proposed under planning permission ref: 11/00150/PPPM it was determined by Angus Council at the meeting of 01 February 2012 that the proposed development was acceptable in terms of the policies set out in the Angus Local Plan Review 2009 which was the relevant local plan at the time. The Angus Local Plan Review has now been superseded by the Angus Local Development Plan and the policies it contains are now the primary development plan basis for consideration of the application. It is appropriate to consider the application in the context of the ALDP policies to identify if there has been any material change in circumstance or any change in material considerations that would lead to a different decision than at the time of the original grant of planning permission.
- 8.8 As noted above the site is now specifically allocated for a development comprising a supermarket, associated parking, landscaping and improved road layout in accordance with planning permission ref: 11/00150/PPPM (allocation K4 refers). The proposal is fully supported by the specific land allocation related to the site as this planning application seeks to effectively extend the period in which planning permission ref: 11/00150/PPPM could be implemented. Accordingly there is no conflict in terms of the principle of the proposed development on the site and no issue in principle with extending the period within which further applications can be submitted and the permission subsequently implemented.
- 8.9 The relevant policies of the Angus Local Development Plan identified in Appendix 3 below support the conditions that were previously attached to the original planning permission in principle and there are no matters that require to be addressed by condition. The conditions attached to the original permission have been reviewed and are appropriate in respect of this application subject to minor revisions. These allow detailed matters to be subject of further applications for approval, require the submission of appropriate supporting information to aid the assessment of such applications and seek to regulate the nature and operation of the development for the reasons set out with each proposed condition at Section 10 below.

- 8.10 The proposal involves the demolition of a traditionally constructed cottage and this has potential to impact on bats which are a European Protected Species. This issue cannot be dealt with by means of a condition and Policy PV5 relates to protected species and states that Angus Council and other partner agencies will work together to protect and enhance wildlife and its habitat. In this case the applicant has undertaken the required survey work and the submitted report confirms that the development will not adversely impact any protected species or habitat.
- 8.11 The original planning permission was granted subject to a planning obligation that required the applicant to undertake improvements to the local road network if the Pathhead supermarket was built and a planning permission for a supermarket on land at Gairie Works implemented. The planning permission at Gairie Works has now lapsed and there is therefore no requirement for the road improvements addressed by the previous planning obligation.
- 8.12 There have been other developments in the surrounding area since the previous planning permission was granted. However, the sizeable developments that have taken place are on sites that were committed and therefore taken into account in the studies that accompanied the original planning application and were taken into account in its determination. Consultation responses have not identified any other matters that would render it inappropriate to allow an additional period of time for submission of further applications and implementation of the planning permission.
- 8.13 In the period since the time of the initial application the economic conditions have not been favourable to the development of new supermarkets and several convenience retail related planning permissions which have been determined to be acceptable in planning terms have remained unimplemented or have expired. It is therefore understandable that the applicant would seek to extend the duration of the planning permission in order to allow a greater length of time to seek a site operator that would allow the for the development to come forward by applying to develop without complying with the original duration period attached in 2013. In this case it is considered to be appropriate to allow a further period in order that a site that has already been considered to be acceptable for retail development might come forward. A further condition regarding timescales is not necessary as legislation indicates that all planning permissions will last for three years unless otherwise stated. This approach would allow the additional duration period that is sought. Should the planning permission not be implemented within this three year period the planning authority would retain the right to review the situation in the context of the Local Development Plan or the prevailing policy context of the time should further time periods be sought by means of a further application.
- 8.14 In conclusion, Council has previously granted planning permission in principle for this development. The allocation of the site for convenience retail development in the adopted Angus Local Development Plan is a significant consideration that firmly establishes the position in relation to the principle of retail development on the site. The current planning application seeks permission to allow a longer time period for the submission of further applications for approval of requisite matters and for commencement of development. This is effectively a renewal of the existing permission. The principle of this development is consistent with the Angus Local Development Plan and detailed matters such as the layout of the site and design of the buildings will require the submission of further applications to allow those matters to be considered. The conditions below reflect those previously considered necessary by Council to address those issues but they have been reviewed and updated as appropriate to reflect the current situation. There are no material considerations that justify refusal of planning permission.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The decision to grant permission/consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest

and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

10. CONCLUSION

It is recommended that the application be approved for the following reasons, and subject to the following condition(s):

Reason(s) for Approval:

The site is allocated in the adopted Angus Local Development Plan 2016 for development of the nature proposed by this application for planning permission in principle. The proposal complies with relevant provisions of the development plan and there are no material considerations that justify refusal of the application.

Conditions:

1. Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority. No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.
 - (i) details of the layout of the site including the siting, design and external appearance of the buildings on the site, to include detailed plans, sections and elevations of the proposed building(s), internal road layout, car and cycle parking (which shall be in accordance with Angus Council and national maximum parking standards), service areas and landscaping;
 - (ii) details of the means of pedestrian and vehicular access to the site which shall include full details of the roundabout on the A926 public road and associated road realignment; controlled pedestrian crossings on the A926 public road to the southeast of the new roundabout and to the south of the existing access to Thrums Veterinary Centre; a footway on the east side of Forfar Road between the Thrums Veterinary Practice and the south-easternmost corner of the site beyond the new roundabout; the means of access to the proposed buildings; as well as all other matters relating to road layout design and specification including provision of street lighting;
 - (iii) existing and proposed finished ground and building floor levels in relation to a fixed datum point on or adjacent to the site;
 - (iv) all proposed boundary treatments and hard and soft landscaping within the site;
 - (v) the means of foul and surface water drainage, including any flood prevention or mitigation measures, which shall accord with the CIRIA Sustainable Urban Drainage Systems Design Manual. All water retention/detention features shall be designed to minimise danger to the public and shall be fully landscaped and fenced where necessary to achieve this purpose;
 - (vi) all fixed external lighting, including lighting fixed to the building(s);
 - (vii) details of any refrigeration system, mechanical ventilation system or extraction system for the removal of cooking odours from the premises. Any extraction system shall be designed, installed, operated and maintained so that cooking odours are not detectable within neighbouring premises;
 - (viii) a scheme for protecting neighbouring noise sensitive dwellings from noise generated from the development when operational. This shall include noise limits, details of hours of operation, hours for delivery of goods, any restriction on such hours necessary to protect amenity and any acoustic fencing which may be required around the service yard;
 - (ix) details of the location and specification of public transport infrastructure and relocation of existing bus stops as necessary. Such details shall include full details of bus stops, bus lay-bys, the bus lay-over area and associated infrastructure (which shall include enclosed and lit bus shelters, real time bus information and raised boarding kerbs);
 - (x) a sustainability statement detailing proposals for reducing energy consumption and waste

disposal;

(xi) the provision of an area for recycling within the car park accessible to members of the public; and,

(xii) a scheme for the phasing of all works.

The measures that are approved shall be implemented in their approved form prior to the opening of the food store for trading unless otherwise detailed in conditions attached to this permission or in a subsequent approval of matters specified in conditions.

Reason: To ensure that the matters referred to are given full consideration.

2. The application for the approval of details specified in condition 1 above shall be accompanied by the following:
 - (i) a Design Statement (as advocated in PAN68 - Design Statements). The Design Statement should draw upon the conclusions of the Landscape Appraisal & Design Statement dated 14 December 2010 submitted by the applicant and shall provide for a site layout and design that reflects the Conceptual Framework Masterplan provided at Figure 4.2 therein;
 - (ii) a noise impact assessment, in accordance with a method statement approved in writing by the planning authority;
 - (iii) a lighting assessment, in accordance with a method statement approved in writing by the planning authority;
 - (iv) a landscaping scheme, to include species, sizes, planting distances and proposed arrangements initial planting and subsequent maintenance;
 - (v) a supplementary transport assessment that shall take account of committed development and material changes in the local road network since the initial grant of planning permission under ref: 11/00150/PPPM and which shall include service access to the site and a travel plan to promote travel to the store by means other than private car and measures for future monitoring, review and enhancement of the travel plan;
 - (vi) a detailed drainage strategy which shall demonstrate that the proposed development would not increase the risk of flooding outwith the site for critical flood events up to and including a 1 in 200 year return period.

Reason: To enable the planning authority to consider the matters detailed in condition 1, in the interests of visual amenity, flood prevention, safeguarding amenity of noise and light sensitive properties and accessibility.

3. The proposed food store shall not be subdivided to form more than one retail unit and it shall comply with the following requirements:
 - (i) a maximum gross floor space not exceeding 3,995 square metres; and
 - (ii) no more than 719 square metres of net floorspace to be used for the sale of comparison goods. Comparison goods are as follows: books; clothing; footwear; furniture; floor coverings; household textiles; radio, electrical and other durable goods; hardware and DIY supplies; chemist goods; jewellery, silverware, watches and clocks; recreational and any such other miscellaneous goods, which are approved in writing by the planning authority before they are offered for sale.

Reason: To retain control over the format of retail development at the site in the interests of sustaining and enhancing the vitality and viability of Kirriemuir town centre.

4. Unless the planning authority has given written approval in advance, no construction work that causes noise audible at any neighbouring noise sensitive dwelling shall take place outwith the following times: 0730 hours to 1730 hours Mondays to Fridays and 0730 hours to 1500 hours on Saturdays.

Reason: In order to protect the amenity of nearby noise sensitive properties.

5. No works in connection with the permission hereby approved shall commence until evidence has been submitted to and approved in writing by the planning authority to demonstrate

Scottish Water's agreement that a connection can be made for the foul drainage system of the proposed food store to the public drainage network at the time of the food store opening for trading. Thereafter the foul drainage system of the proposed food store shall be connected to the public drainage network prior to its opening to the public and for all time thereafter.

Reason: In order to evidence that capacity exists to serve the proposed development within the public drainage network.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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DATE: 26 SEPTEMBER 2016

Appendix 1 – Location Plan

Appendix 2 – Conditions attached to Planning Permission in Principle Ref: 11/00150/PPPM

Appendix 3 – Summary of information submitted in support of 11/00150/PPPM

Appendix 4 – Relevant Development Plan Policies

Appendix 1 – Location Plan



Appendix 2 – Conditions attached to Planning Permission in Principle Ref: 11/00150/PPPM

1. Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.

(i) details of the layout of the site including the siting, design and external appearance of the buildings on the site, to include detailed plans, sections and elevations of the proposed building(s), internal road layout, car and cycle parking (which shall be in accordance with Angus Council and national maximum parking standards), service areas and landscaping;

(ii) details of the means of pedestrian and vehicular access to the site which shall include full details of the roundabout on the A926 public road and associated road realignment; controlled pedestrian crossings on the A926 public road to the southeast of the new roundabout and to the south of the existing access to Thrums Veterinary Centre; a footway on the east side of Forfar Road between the Thrums Veterinary

Practice and the south-easternmost corner of the site beyond the new roundabout; the means of access to the proposed buildings; as well as all other matters relating to road layout design and specification including provision of street lighting;

(iii) existing and proposed finished ground and building floor levels in relation to a fixed datum point on or adjacent to the site;

(iv) all proposed boundary treatments and hard and soft landscaping within the site;

(v) the means of foul and surface water drainage, including any flood prevention or mitigation measures, which shall accord with the CIRIA Sustainable Urban Drainage Systems Design Manual. All water retention/detention features shall be designed to minimise danger to the public and shall be fully landscaped and fenced where necessary to achieve this purpose;

(vi) all fixed external lighting, including lighting fixed to the building(s);

(vii) details of any refrigeration system, mechanical ventilation system or extraction system for the removal of cooking odours from the premises. Any extraction system shall be designed, installed, operated and maintained so that cooking odours are not detectable within neighbouring premises;

(viii) a scheme for protecting neighbouring noise sensitive dwellings from noise generated from the development when operational. This shall include noise limits, details of hours of operation, hours for delivery of goods, any restriction on such hours necessary to protect amenity and any acoustic fencing which may be required around the service yard;

(ix) details of the location and specification of public transport infrastructure and relocation of existing bus stops as necessary. Such details shall include full details of bus stops, bus lay-bys, the bus lay-over area and associated infrastructure (which shall include enclosed and lit bus shelters, real time bus information and raised boarding kerbs);

(x) a sustainability statement detailing proposals for reducing energy consumption and waste disposal;

(xi) the provision of an area for recycling within the car park accessible to members of the public; and,

(xii) a scheme for the phasing of all works.

The measures that are approved shall be implemented in their approved form prior to the opening of the foodstore for trading unless otherwise detailed in conditions attached to this permission or in a subsequent approval of matters specified in conditions.

Reason: To ensure that the matters referred to are given full consideration and to accord with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The application for the approval of details specified in condition 1 above shall be accompanied by the following:

(i) a Design Statement (as advocated in PAN68 - Design Statements). The Design Statement should draw upon the conclusions of the Landscape Appraisal & Design Statement dated 14 December 2010 submitted by the applicant and shall provide for a site layout and design that reflects the Conceptual Framework Masterplan provided at Figure 4.2 therein;

- (ii) a noise impact assessment, in accordance with a method statement approved in writing by the planning authority;
- (iii) a lighting assessment, in accordance with a method statement approved in writing by the planning authority;
- (iv) a landscaping scheme, to include species, sizes, planting distances and proposed arrangements initial planting and subsequent maintenance;
- (v) a supplementary transport assessment to include service access to the site and a travel plan to promote travel to the store by means other than private car and measures for future monitoring, review and enhancement of the travel plan
- (vi) a detailed drainage strategy which shall demonstrate that the proposed development would not increase the risk of flooding outwith the site for critical flood events up to and including a 1 in 200 year return period.

Reason: To enable the planning authority to consider the matters detailed in condition 1, in the interests of visual amenity, flood prevention, safeguarding amenity of noise and light sensitive properties and accessibility.

3. The proposed foodstore shall not be subdivided to form more than one retail unit and it shall comply with the following requirements:

- (i) a maximum gross floor space not exceeding 3,995 square metres; and
- (ii) no more than 719 square metres of net floorspace to be used for the sale of comparison goods. Comparison goods are as follows: books; clothing; footwear; furniture; floor coverings; household textiles; radio, electrical and other durable goods; hardware and DIY supplies; chemist goods; jewellery, silverware, watches and clocks; recreational and any such other miscellaneous goods, which are approved in writing by the planning authority before they are offered for sale.

Reason: To retain control over the format of retail development at the site in the interests of sustaining and enhancing the vitality and viability of Kirriemuir town centre.

4. Unless the planning authority has given written approval in advance, no construction work that causes noise audible at any neighbouring noise sensitive dwelling shall take place outwith the following times: 0730 hours to 1730 hours Mondays to Fridays and 0730 hours to 1500 hours on Saturdays.

Reason: To protect the amenity of nearby residents.

5. No works in connection with the permission hereby approved shall commence until evidence has been submitted to and approved in writing by the planning authority to demonstrate Scottish Water's agreement that a connection can be made for the foul drainage system of the proposed food store to the public drainage network at the time of the food store opening for trading. Thereafter the foul drainage system of the proposed food store shall be connected to the public drainage network prior to its opening to the public and for all time thereafter.

Reason: In order to evidence that capacity exists to serve the proposed development within the public drainage network.

Appendix 3 – Summary of information submitted in support of 11/00150/PPPM

A **Retail Statement** (February 2011) identifies a catchment for the proposed store which includes Kirriemuir and its hinterland and includes Alyth and Old Rattray, Blairgowrie, Coupar Angus and Meigle, Rattray and Glenshee, Rosemount and Westfield and Dean. It indicates that the population of the catchment area at 2012 would be 27,703 and estimates available convenience goods expenditure of £50.25m and comparison goods expenditure of £44.96m at 2012. A gross floorspace of 3995 sqm (2397 sqm net) is indicated with a projected total turnover of £18.3m (£3.2m comparison). The statement indicates that even with the Gairie Works permission, applying the assumptions used in the retail study to support that application, there is still a substantial leakage of expenditure equivalent to 25% or £12.7m of the total available expenditure on convenience goods. The assessment indicates that, because there is very little convenience floorspace and turnover within the town centre the proposal (in combination with the Gairie Works permission) would not adversely affect existing levels of trade within the town centre. The assessment estimates that the impact on Kirriemuir town centre would be only 1%.

A **Sustainability Statement** concludes that the site is within easy walking distance of the town centre and housing in the Southmuir. It suggests that the development would arrest retail leakage thus reducing car journeys. It indicates that a supermarket would make the town more self-sufficient and therefore more sustainable. The applicant commits to a sustainable development and to meeting the Scottish Governments 15% reduction in CO2 emissions to the benefit of the prospective operator and the existing community.

Pre Application Consultation Report states that public events were held on Friday 30 April and Saturday 1 May 2010 to allow members of the public to discuss the proposal with the applicant. It is indicated that 25 local residents visited the exhibition and 27 response forms were completed and returned to Guild Homes. The Report indicates that in general there appeared to be support for the development of a supermarket on the site. The Report also makes reference to an earlier consultation exercise undertaken by the applicant in respect of a previously refused application. This indicated that 78% of the 1755 people surveyed considered the Pathhead site to be preferable to Gairie/East Muirhead/Undecided/No supermarket.

A **Traffic Impact Statement** (December 2010) which was updated to take account of an extant planning permission in principle for a supermarket at the Gairie Works and the associated traffic impacts of two stores. The TIS suggests that the location of the development allows it to integrate into existing pedestrian and cycle routes and will minimise walking journey distances from existing residential areas within Kirriemuir. It indicates that the proposed store would be accessed from a new roundabout on the A926 Forfar – Kirriemuir road and indicates that the removal of Newton Cottage would allow a full 90m forward visibility splay. In terms of the capacity of the local road network, the report confirms that the road network as existing could not accommodate the proposed store because the junction between Forfar Road/ Bellies Brae/ The Moon and Glamis Road (290m north of the site) would exceed its capacity. The Assessment identifies that the proposed store would generate an additional 27 vehicles per hour onto the Forfar Road approach during weekday PM peak period and as such a signalisation option for that junction has been developed to provide a solution to network capacity problems. The Assessment suggests that this would also be beneficial for the safe manoeuvring of large vehicles including articulated vehicles.

A **Landscape Appraisal and Design Statement** (14 December 2010). The appraisal states that the visual capacity to accommodate development varies across the site. It states that the capacity of the southwest of the site is more enclosed and is characterised by the urban fringe location and as such the capacity to accommodate the development is high. The appraisal also introduces a development concept that orientates the store towards Forfar Road at the west with an entrance plaza (west), a gateway feature in Forfar Road (south), a parkland amenity space to the north of the site and structural landscaping on the east boundary of the site.

Appendix 4 – Relevant Development Plan Policies

Angus Local Development Plan 2016

K4 Retail - Land at Pathhead

3.2 hectares of land at Pathhead is allocated for a supermarket, associated parking, landscaping and improved road layout in accordance within the planning permission (planning application reference 11/00150/PPPM). Proposals will be supported that are in accordance with this permission.

Policy DS1 : Development Boundaries and Priorities

All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

*Sharing an edge or boundary, neighbouring or adjacent

Policy DS2 : Accessible Development

Development proposals will require to demonstrate, according to scale, type and location, that they:

- are or can be made accessible to existing or proposed public transport networks;
- make provision for suitably located public transport infrastructure such as bus stops, shelters, lay-bys, turning areas which minimise walking distances;
- allow easy access for people with restricted mobility;
- provide and/or enhance safe and pleasant paths for walking and cycling which are suitable for use by all, and link existing and proposed path networks; and
- are located where there is adequate local road network capacity or where capacity can be made available.

Where proposals involve significant travel generation by road, rail, bus, foot and/or cycle, Angus Council will require:

- the submission of a Travel Plan and/or a Transport Assessment.
- appropriate planning obligations in line with Policy DS5 Developer Contributions.

Policy DS3 : Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- **Distinct in Character and Identity:** Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- **Safe and Pleasant:** Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- **Well Connected:** Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
- **Resource Efficient:** Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Policy PV5 : Protected Species

Angus Council will work with partner agencies and developers to protect and enhance all wildlife including its habitats, important roost or nesting places. Development proposals which are likely to affect protected species will be assessed to ensure compatibility with the appropriate regulatory regime.

European Protected Species

Development proposals that would, either individually or cumulatively, be likely to have an unacceptable adverse impact on European protected species as defined by Annex 1V of the Habitats Directive (Directive 92/24/EEC) will only be permitted where it can be demonstrated to the satisfaction of Angus Council as planning authority that:

- there is no satisfactory alternative; and
- there are imperative reasons of overriding public health and/or safety, nature, social or economic interest and beneficial consequences for the environment, and
- the development would not be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range

Other Protected Species

Development proposals that would be likely to have an unacceptable adverse effect on protected species unless justified in accordance with relevant species legislation (Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992) subject to any consequent amendment or replacement.

Further information on protected sites and species and their influence on proposed development will be set out in a Planning Advice Note.

Policy PV15 : Drainage Infrastructure

Development proposals within Development Boundaries will be required to connect to the public sewer where available.

Where there is limited capacity at the treatment works Scottish Water will provide additional wastewater capacity to accommodate development if the Developer can meet the 5 Criteria*. Scottish Water will instigate a growth project upon receipt of the 5 Criteria and will work with the developer, SEPA and Angus Council to identify solutions for the development to proceed.

Outwith areas served by public sewers or where there is no viable connection for economic or technical reasons private provision of waste water treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. A private drainage system will only be considered as a means towards achieving connection to the public sewer system, and when it forms part of a specific development proposal which meets the necessary criteria to trigger a Scottish Water growth project.

All new development (except single dwelling and developments that discharge directly to coastal waters) will be required to provide Sustainable Drainage Systems (SUDs) to accommodate surface water drainage and long term maintenance must be agreed with the local authority. SUDs schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process.

Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

*Enabling Development and our 5 Criteria (<http://scotland.gov.uk/Resource/0040/00409361.pdf>)

Policy PV18 : Waste Management in New Development

Proposals for new retail, residential, commercial, business and industrial development should seek to minimise the production of demolition and construction waste and incorporate recycled waste into the development.

Where appropriate, Angus Council will require the submission of a Site Waste Management Plan to demonstrate how the generation of waste will be minimised during the construction and operational phases of the development.

Development proposals that are likely to generate waste when operational will be expected to include appropriate facilities for the segregation, storage and collection of waste. This will include provision for the separate collection and storage of recyclates within the curtilage of individual houses.