

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 6 OCTOBER 2015

**PLANNING APPLICATION - FACTORY 6 BADEN POWELL ROAD KIRKTON INDUSTRIAL ESTATE
ARBROATH DD11 3LS**

GRID REF: 362903 : 742408

REPORT BY HEAD OF PLANNING AND PLACE

Abstract: This report deals with planning application No. 15/00761/FULL for the extension of an existing factory unit with the provision of additional parking and loading bay for Multi Packaging Solutions at Factory 6, Baden Powell Road, Kirkton Industrial Estate, Arbroath. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reasons given in Section 10 of 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:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. INTRODUCTION

3.1 The applicant seeks full planning permission for the erection of a 925 sqm factory extension including the provision of additional parking and a loading bay at an existing factory unit at Kirkton Industrial Estate, Arbroath.

3.2 The application relates to the extension of an existing factory which is currently used for the manufacture of presentation packaging products primarily for the whiskey industry. The current unit consists of two separate buildings that are located on two formerly separate plots which have a step level change of around 1 m between them in favour of the north most part of the site although the whole site is set on a gentle gradient over its length. It has been indicated that the extension is required as a result of a business consolidation involving the former Armstrong Packaging who previously operated at the site and Presentation Products which was based in a unit at Elliot. The business now operates under the banner of Multi Packaging Solutions and the company is currently committed to vacating the site at Elliot and moving staff and production to Kirkton.

3.3 The existing business is located on a 1.2 ha site at the east of Kirkton Industrial Estate and is separated from the residential properties on Herald Avenue to the east by a treed amenity planting strip which is approximately 12 metres wide. Industrial land lies to the north, south and west of the application site within the context of the wider Kirkton Industrial Estate that is allocated in the local plan for uses within Use Classes 4 (business), 5 (general industry) and 6 (storage or distribution) as defined by the Town and Country Planning (Use Classes) (Scotland) Order 1997.

- 3.4 The proposal would extend the existing north most manufacturing building within the site by around 30m to the east. The extension would have a roughly square plan form with a broad shallow roof pitch and a gable of around 29m in width. A level loading dock would be formed on the south east elevation and would be linked to the wider site for loading and unloading by an access door on the north east elevation that would be served by a private road way within the operational curtilage linking the extension to the south most manufacturing building. The extension would stand around 6m to apex and 4.2m to wall head.
- 3.5 As well as the extension to the factory, a large service yard would be formed which would enable goods vehicles to load and discharge within the operational curtilage of the business via the new loading dock and airlock which would be integral to the extension. An internal service road would also be formed to enable the movement of goods between buildings in order to resolve the current situation whereby some loading and offloading takes place on the public road. In order to overcome the levels change between the existing buildings, the area of the site on which the yard and internal road would be formed would be re-graded to a north west – south east slope which would roughly correspond with the grading of Baden Powell Road.
- 3.6 The application has not been subject of variation. The application was advertised in the Courier under Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

4. RELEVANT PLANNING HISTORY

As stated above, the site consists of two previously separate factory units. It is understood that both factories have been in existence for approximately 20 years. There are no restrictions attached to the operation of the factory units in terms of operating hours. Similarly no noise restrictions apply other than those that can be applied under other statutory provisions out with the scope of planning legislation.

5. APPLICANT'S CASE

The applicant indicates that the new facility is required in order to meet demand from major customers. The project will facilitate an increased production capacity and improvements in staff welfare and office facilities and the creation of a state of the art design centre. It is stated that the overall development would help to safeguard high GVA roles within the local economy and allow for potential growth of the business to take place.

6. CONSULTATIONS

Angus Council Environmental Health – has indicated that a Noise Assessment is required in order to determine the impact of the development on neighbours and to establish appropriate mitigation. It has also indicated that it is investigating complaints regarding noise from the existing operation.

Community Council - There is currently no active community council for the area in which the development site is located.

Angus Council - Roads - No objection.

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

7. REPRESENTATIONS

Six (6) letters of representation were received, from five properties, these being the properties that bound the site to the east. All 6 letters offer objection to the proposal. The letters of representation will be circulated to Members of the Development Standards Committee and a copy will be available to view in the local library or on the council's Public Access website. The main points of concern were as follows:

Noise disturbance - As stated in Section 4 above, there is currently no noise restrictions in place in relation to the operation of the overall site. This matter is discussed in more detail below.

Amenity impacts from increased duration of operations - Similar to the above, there are currently no restrictions in place in relation to the duration of operations on the site. This matter is discussed below.

Visual amenity impacts - The issue of the visual impact of the development is discussed further below.

Loss of privacy - The operational curtilage of the business would remain the same and it is considered that no unacceptable privacy issues would arise as a result of the development.

Unauthorised work undertaken - Some preparatory works have been undertaken in advance of the granting of planning permission. Officers have advised that no further development that requires planning permission should be undertaken until a relevant planning permission is issued. Notwithstanding this, the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) makes provision for the undertaking of some of the works that have been undertaken to date and work has continued on development permitted by the GPDO.

Health/wellbeing impacts - The development proposal relates to the continued operation of an existing industrial site that was operational prior to the adjacent housing being erected to the east. No details are given of what health impacts would result from the continued use of the site and no known health complaints have been received to date other than those given in the submitted representations.

Loss of property value - This is not a valid planning consideration.

Creation of precedent - There is no principle of binding precedent in planning law. Each case is considered on its individual merits as required by legislation.

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 In this case the development plan comprises:-

- TAYplan (Approved 2012)
- Angus Local Plan Review (Adopted 2009)

8.3 As the application is not of strategic importance the policies of TAYplan are not referred to in this report and the policies of the Angus Local Plan Review form the basis for the consideration of the proposal. The relevant local plan policies are reproduced at Appendix 1.

8.4 Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Draft Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014 and published the Proposed Angus Local Development Plan for a statutory period for representations. The Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP (June 2012) and Scottish Planning Policy (SPP) published in June 2014. The statutory period for representation has now expired and submitted representations are in the process of being assessed. Any unresolved representations are likely to be considered at an Examination by an independent Reporter appointed by Scottish Ministers. The Council must accept the conclusions and recommendations of the Reporter before proceeding to adopt the plan. Only in exceptional circumstances can the Council choose not to do this. The Proposed ALDP represents Angus

Council's settled view in relation to the appropriate use of land within the Council area. As such, it is a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to its contents until the level and significance of any objection to the policies and proposals of the plan are known.

- 8.5 The proposed development would take place on land that is allocated in the Angus Local Plan Review for employment uses within use classes 4 (business), 5 (general industry) and 6 (storage or distribution) as defined in the Town and Country Planning (Use Classes) Scotland Order 1997.
- 8.6 Development proposals on sites that are identified on Local Plan Proposals maps for employment uses fall to be considered under the provisions of Policy SC16. Policy SC16 states that a supply of employment land will be maintained at Kirkton Industrial Estate amongst other sites and proposals relating to business and industry will be directed to such locations. Furthermore, at these locations uses outwith Use Classes 4, 5 & 6 will not normally be granted planning permission. The policy also states that development proposals should also not be detrimental to surrounding amenity.
- 8.7 The proposed development consists of the expansion of an established industrial (Class 5) operation within the existing site used by the operator. The development proposal is therefore considered to be appropriate in use class terms.
- 8.8 In terms of the amenity considerations of Policy SC16, Policy S4 and Policy S6, Environmental Health has been consulted on the proposal and has indicated that a noise impact assessment is required in order to understand the noise impacts that would be associated with the development and to establish appropriate mitigation. It is also noted that third parties have raised objection to the proposal regarding the impact of noise and activity on amenity. However, in considering the issue of amenity, it is also relevant that the proposal relates to an existing class 5 industrial use that is not currently subject to operating restrictions. The proposal would provide for the operation to move closer to the neighbouring properties and that could give rise to increased amenity impacts. In this respect, it would be reasonable to introduce some controls on the site in order to minimise potential amenity impacts. A condition is proposed that requires the applicant to submit a noise impact assessment prior to the commencement of the use of the factory extension. This will allow noise limits to be established and appropriate mitigation to be identified and provided to ensure compliance with those limits. This approach will introduce an element of control aimed towards safeguarding nearby residential amenity that would otherwise simply not exist over the site as operated at present.
- 8.9 In terms of visual amenity, the proposed steel portal framed building would have a fairly utilitarian appearance in common with existing buildings in the site and most other buildings within the well-established industrial estate where there are many buildings of a similar size and scale in relatively close proximity. It is noted that the matter of visual amenity has been raised in submitted letters of objection however; the site is partially screened by a treed amenity strip between the site and the adjacent housing. While the development would mean that a building and its associated yard would be located closer to neighbouring housing than at present, there would still be 38 metres stand-off between the closest house and the building which is broadly comparable to the pattern of development to the north of the site where larger buildings related to heavy industry are located at similar distances from residential receptors without unacceptable visual amenity impacts arising. The visual appearance of the development is considered to be appropriate in the context that it would be set within and the development is not considered to result in an unacceptable visual amenity impact. The proposal is therefore considered to be in compliance with Policy SC16 and the visual amenity considerations of Policy S6 and the design considerations of Policy S3.
- 8.10 As well as the foregoing considerations, the proposal also needs to be considered in terms of the balance of the relevant considerations contained within Schedule 1 of Policy S6. No objection has been raised by Angus Council Roads in terms of roads, parking and access considerations and it has been indicated that in- curtilage parking would be within acceptable limits. There would be no landscaping, open space or biodiversity impacts arising from the extension to an existing industrial facility on allocated employment land. In terms of drainage and flood risk

considerations, no alteration is proposed to existing drainage arrangements and the site is not in a known flood risk area although it is indicated that SUDS would be utilised for the disposal of surface water. A SUDS condition is therefore attached in order that the SUDS design can be verified to be appropriate in consultation with Roads. The proposal is otherwise considered to be in full accordance with Policy S6.

- 8.11 As well as taking account of relevant development plan considerations, other material considerations also need to be taken into account. In this case, site history is undoubtedly a material consideration of some weight and it is relevant to note that the site has lawful use for general industrial purposes. It is not subject to any planning controls regarding noise limits or hours of operation. Accordingly, in planning terms, the site can currently be operated 24 hours per day without restriction and could be used for any industrial purpose without restriction.
- 8.12 The representations submitted in respect of the proposal are also relevant. Concerns regarding noise levels associated with the existing premises are noted and these are being investigated by Environmental Health. However, as there are no planning controls in place regarding the operations these matters are outwith the control of the planning system. Notwithstanding this, and as discussed above, it is recognised that the erection of an extension that is closer to neighbouring properties may give rise to additional amenity impacts and may generate additional activity in the proximity of those properties. The condition regarding noise that is proposed below would introduce some control in a situation where none currently exists and it is considered that this would provide a benefit to the amenity of the area. It is understood that the applicant has reviewed objections submitted in respect of the application and has undertaken to implement measures to address some of the issues raised. Whilst little weight can be attached to those voluntary measures in the determination of this application it is considered that this demonstrates some commitment to addressing the concerns of those that live nearby.
- 8.13 In conclusion this is a proposal for a factory and yard extension on land that is allocated for employment uses within an existing industrial estate. The existing site is not subject to any planning restriction or limitation in relation to the existing use. This proposal would allow a factory extension closer to neighbouring housing than presently exists on site and in that respect there is potential for additional amenity impacts. However the proposal also provides opportunity to introduce amenity controls where none currently exist. The introduction of appropriate amenity controls by way of planning condition would ensure that the proposal is compatible with relevant development plan policy. There are no material considerations that justify refusal of the application.

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 proposed development complies with the relevant provisions of the Development Plan. The development would not amount to an unacceptable amenity impact and would be an appropriate expansion to a well-established manufacturing facility on land that is allocated for that purpose. There are no material considerations that justify refusal of planning permission.

Conditions:

1. That prior to the commencement of use of the factory extension hereby approved a noise impact assessment shall be submitted to and approved in writing by the planning authority. That noise impact assessment shall establish noise limits for the operation of the factory and the associated yard area and shall identify mitigation measures to ensure that the noise limits are met at all times. Thereafter the approved mitigation measures shall be implemented prior to the use of the factory extension hereby approved and shall be retained. The operation shall be undertaken in accordance with the approved noise limits and mitigation established by this condition.

Reason: To ensure provision of information to allow appropriate noise limits to be set and necessary noise mitigation measures to be approved and implemented in the interests of safeguarding the amenity of occupants of nearby residential property.

2. That hard surfacing works within the development hereby approved shall not be finished to a final specification unless full details of the proposed means of disposal of surface water from the development has been submitted to and approved in writing by the planning authority. Unless otherwise agreed in writing by the planning authority, surface water shall be disposed of via the use of Sustainable Urban Drainage Systems and the development shall not be brought into use unless the agreed drainage system has been provided in its entirety.

Reason: To ensure the provision of an acceptable drainage system in the interests of the amenity of the area and to ensure compliance with development plan requirements in respect of surface water drainage arrangements.

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: 28 SEPTEMBER 2015

Appendix 1 : Development Plan Policies

Appendix 1

Development Plan Policies

Angus Local Plan Review 2009

Policy S1: Development Boundaries

- (a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.
- (b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.
- (c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S3: Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Policy S4: Environmental Protection

Where development proposals raise issues under environmental protection regimes, developers will require to demonstrate that any environmental protection matter relating to the site or the development has been fully evaluated. This will be considered alongside planning matters to ensure the proposal would not unacceptably affect the amenity of the neighbourhood.

Policy S6: Development Principles

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

- (a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- (b) Proposals should not result in unacceptable visual impact.
- (c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

(d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.

(e) Access to housing in rural areas should not go through a farm court.

(f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.

(g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

(h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)

(i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.

(j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.

(k) The planting of native hedgerows and tree species is encouraged.

(l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

(m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)

(n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.

(o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)

(p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).

(q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)

(r) Development should minimise waste by design and during construction.

Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy SC16: Employment Land Supply

Angus Council will maintain a supply of employment land to which proposals for business and industry will be directed as follows:

- Arbroath, Elliot and Kirkton, (minimum 10 ha);
- Forfar, Orchardbank (minimum 10 ha);
- Montrose, Forties Road and Broomfield (minimum 10 ha);
- Brechin, Business Park (minimum 5 ha);
- Carnoustie (up to 5 ha);
- Kirriemuir (up to 5 ha).

At these locations, and other established employment areas, planning permission will not normally be granted for uses other than Class 4* (business), Class 5* (general industry), and Class 6* (storage and distribution), but may be considered where they are small scale, complementary and ancillary to the existing or proposed use. Development proposals will require to demonstrate there is no detriment to the surrounding amenity.

* *As defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997.*