

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 8 AUGUST 2017

PLANNING APPLICATION – FORMER DISTILLERY, BRECHIN ROAD, MONTROSE

GRID REF: 371405 : 759118

REPORT BY HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES

Abstract:

This report deals with planning application No 17/00284/FULL for Erection of Class 1 Retail Development (3 Units) with Associated Car parking, Access, Landscaping and Engineering Works for Kilmac Montrose Ltd at Former Distillery, Brechin Road, Montrose. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason and subject to the conditions 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 Class 1 retail development (3 units) with associated car parking, access, landscaping and engineering works at Former Distillery, Brechin Road, Montrose.

3.2 The application site which measures around 1.4 hectares is located to the north of Brechin Road, approximately 130 metres west of the North Esk Road junction. The site is rectangular in shape, relatively flat throughout and is currently vacant. The rear gardens of residential properties at McNab Avenue and Panter Crescent form the north and west boundaries of the site, separated respectively by an existing landscaped bund and belt of mature trees. Brechin Road runs along the southern boundary of the site whilst the eastern boundary is formed by a spur road which gives access to the car park and rear servicing area of the adjacent Lidl supermarket.

3.3 The proposal involves the erection of a terrace of three retail units on the site. The frontage of the retail units would be located 51m to the north of Brechin Road with the west most unit having a footprint of 2044sqm which would be occupied by Home Bargains. The middle unit would have a footprint of 465sqm and the east most unit would have a footprint of 650sqm. In terms of appearance the largest unit would have a frontage of 43.65m with an overall ridge height of 9.2m. A projecting parapet design feature incorporating a canopy would be attached to south elevation to conceal the shallow pitched roof and would also be capable of accommodating the signage of the unit. Units two and three would have a ridge height of 6.4m and would also incorporate projecting parapet design features at their south elevation which would also be capable of accommodating the signage associated with the units. The external materials of the units would consist of wall cladding (silver/grey) and glazing panels at the public elevation with grey profile cladding on the roof.

- 3.4 A car park with 161 spaces would be provided to the south (front) of the retail units with vehicular access located at the east boundary via an altered junction which also serves the Lidl supermarket. A further 11 parking spaces would be provided on the west side of the existing service road. The service area of the proposed units would be located to the north of units 2 and 3 and east of unit 1 and would be enclosed by a 4m high acoustic fence. Access to the service area would be taken from the existing service road at the north east corner of the site. The existing pedestrian linkage from McNab Avenue would be retained and a new dedicated pedestrian access to the store would be formed directly from Brechin Road. The development would be connected to the public drainage network with surface water from the development dealt with by SUDS. Landscaping proposals include the provision of a post and wire fence with beech hedging along the south boundary of the site, the mature trees at the west boundary would be retained with the existing bund along the north boundary tidied up and supplemented by additional tree planting.
- 3.5 The application has been subject of variation to incorporate the findings of the noise impact assessment (inclusion of acoustic fence), landscaping matters and road layout.
- 3.6 The application was advertised in The Courier as required by legislation.
- 3.7 This application requires to be determined by the Development Standards Committee due to the recommendation for approval whilst being subject to more than five individual objections.

4. RELEVANT PLANNING HISTORY

- 4.1 There is considerable planning history in relation to retail proposals on the former distillery and bonded warehouse sites in this area of Montrose which dates back a number of years. However, of particular relevance is outline planning permission ref. 02/01268/OUT. This was granted in January 2004 and provided for the erection of a retail and residential development on two separate areas of land to the north and south of Brechin Road. Outline approval was granted for a DIY/ Garden Centre store (gross floor area of 3530sq.m/38,000sq.ft) and a food store (gross floor area 1300sq.m/14000sq.ft) on a 2.22 ha site to the north of Brechin Road. The food unit was shown to be located towards the eastern boundary of the site with the DIY/ Garden Centre located in the general area of the current application site. The following planning conditions were attached to the permission in respect of the floorspace of the garden centre and foodstore:-

21. The gross floorspace of the DIY/ garden centre retail unit hereby approved shall not exceed 3530 square metres, comprising 2600 square metres DIY and 930 square metres garden centre area. The net sales floorspace of the unit shall not exceed 3010 square metres, 85% of which shall be restricted to the sale of DIY, hardware, garden tools, plants, garden structures and horticultural associated goods.

The retail unit hereby approved shall not be subdivided to form more than one unit without the prior approval by way of planning permission by Angus Council.

22. The gross floorspace of the retail food unit hereby approved shall not exceed 1300 square metres. The net sales floorspace of the unit shall not exceed 976 square metres, of which the net convenience floorspace hereby approved for the sale of convenience goods shall be no less than 830 square metres. For the purposes of this permission convenience goods are defined as:-

Food, alcoholic and non-alcoholic drinks, tobacco, newspapers and magazines, cleaning materials and matches.

The remainder of the net sales floorspace hereby approved shall be restricted to the sale of comparison goods, the net sales floorspace of which shall not exceed 146 square metres. For the purposes of this permission comparison goods are defined as:-

Books, clothing and footwear, furniture, floor coverings and household textiles, radio, electrical and other durable goods, hardware and DIY supplies, chemist goods, jewellery, silverware, watches and clocks, recreational and other miscellaneous goods.

The retail unit hereby approved shall not be subdivided to form more than one unit without the prior approval by way of planning permission by Angus Council.

4.2 Planning application (Appn. 05/00812/FUL refers) for the erection of a 1,286sqm (sales area) foodstore and associated car parking was approved subject to conditions by the Development Control Committee at its meeting of 11 August 2005. This planning permission has subsequently been implemented. The following planning condition was attached to the permission regarding the retail floorspace and range of goods to be sold from the foodstore:-

16. The gross floorspace of the retail food unit hereby approved shall not exceed 1626 square metres. The net sales floorspace of the unit shall not exceed 1286 square metres, of which the net convenience floorspace hereby approved for the sale of convenience goods shall be no less than 1030 square metres. For the purposes of this permission convenience goods are defined as:-

Food, alcoholic and non-alcoholic drinks, tobacco, newspapers and magazines, cleaning materials and matches.

The remainder of the net sales floorspace hereby approved shall be restricted to the sale of comparison goods, the net sales floorspace of which shall not exceed 256 square metres. For the purposes of this permission comparison goods are defined as:-

Books, clothing and footwear, furniture, floor coverings and household textiles, radio, electrical and other durable goods, hardware and DIY supplies, chemist goods, jewellery, silverware, watches and clocks, recreational and other miscellaneous goods.

The retail unit hereby approved shall not be subdivided to form more than one unit or have a mezzanine floor introduced without the prior approval of the Director of Planning & Transport.

4.3 Planning application (Appn. 09/01353/FULL refers) for the erection of retail development (class 1) with car parking, servicing, landscaping and associated works was approved subject to conditions by the Development Standards Committee at its meeting of 20 September 2011. Works to implement the planning permission have been undertaken on site therefore this permission remains extant. The following planning condition was attached to the permission regarding the retail floorspace and range of goods to be sold from the foodstore:-

8. That no more than 418 sqm (20%) of net floorspace hereby approved shall be used for the sale of comparison goods unless otherwise agreed in writing with the planning authority. For the purposes of this permission comparison goods are defined as books, clothing and footwear, furniture, floor coverings and household textiles, radio, electrical and other durable goods, hardware and DIY supplies, chemist goods, jewellery, silverware, watches and clocks, recreational and other miscellaneous goods which are approved in writing by the planning authority.

5. APPLICANT'S CASE

5.1 The following documents have been submitted in support of the application:

- Retail Statement;
- Design Statement including 3D visualisations;
- Noise Impact Assessment;
- Flood Risk Assessment;
- Drainage Strategy Plan;
- Transport Statement;
- Tree Survey & Arboricultural Constraints Assessment; and
- Preliminary Environmental Assessment Report.

5.2 The supporting information is available to view on the Council's [Public Access](#) system and is summarised at Appendix 2 below.

6. CONSULTATIONS

- 6.1 **Angus Council – Roads** – has not objected to the proposal in respect of traffic safety but has requested the provision of adequate cycle parking within the development and that the existing advance direction sign within the application site is relocated to an alternative location. These matters can be addressed by planning condition. No objection is offered in relation to flooding and drainage.
- 6.2 **Angus Council - Environmental Health** – has not objected to the proposal but has requested noise emissions and external lighting from the development be controlled and these matters can be addressed by planning conditions. In respect of land contamination, EH has requested planning conditions be attached requiring a site-specific risk assessment and a detailed remediation strategy.
- 6.3 **Angus Council – Economic Development** – there was no response from this consultee at the time of report preparation.
- 6.4 **Scottish Water** – has not objected to the proposal and has advised that there is currently sufficient capacity at their water and waste water treatment works for the proposed development.
- 6.5 **Montrose Community Council** – has offered its support to the proposal as the development offers an exciting opportunity for Montrose and will add a further dimension within the retail sector. *The full representation from the community council will be circulated to members of the Development Standards Committee and is available to view on the council's [Public Access](#) system.*

7. REPRESENTATIONS

- 7.1 9 letters of representation have been received; 2 are in support of the proposal with 7 raising objection. 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.
- 7.2 The main points of support are as follows: -
- **The development would add to the retail provision in the Montrose area.**
 - **The development would have economic benefits for Montrose.**
 - **Re-development of the site would result in a visual improvement in the area.**

Comment – The substantive issue is whether the proposed development subject of this application is appropriate on the application site. The substantive issues are addressed under Planning Considerations below.

- 7.3 The following matters have been raised as objections to the application and are discussed under Planning Considerations below: -
- **The development would have an adverse impact on Montrose High Street.**
 - **Any jobs created by the development would be offset through the loss of jobs from existing business in Montrose.**
 - **Impacts on residential amenity.**
 - **Road traffic impacts.**

In addition the following matters have been raised: -

- **Will access to the rear fences of the properties at Lochside Crescent be retained** – the applicant has advised that access for the factor to the rear of the units will be provided for all time coming and the increase in the landscaping/woodland screening will be maintained under a separate factoring arrangement.
- **Approval of the retail units would further exacerbate littering in the adjacent housing estate** - the potential for litter as a consequence of development is dealt with by other legislation. The applicant has advised that the factoring agreement for the operation of the park would also deal with litter collection.
- **Adverse impact on property values** – this is not a material planning consideration.

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 Development Plan (Adopted 2016)
- 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 Development Plan form the main basis for the consideration of the proposal. The relevant policies of the Angus Local Development Plan are reproduced at Appendix 3.
- 8.4 As indicated above there is considerable planning history in relation to retail proposals on the former distillery and bonded warehouse sites in this area of Montrose which dates back a number of years. The various permissions have made provision for the sale of convenience and comparison goods. Outline planning permission 02/01268/OUT made provision for a DIY/garden centre in the general area of the current application site. The gross floorspace of this unit was not to exceed 3530m² with 85% (2,558m²) of the 3010m² net sales floorspace of the unit restricted to the sale of DIY, hardware, garden tools, plants, garden structures and horticultural associated goods. Planning permission 09/01353/FULL proposed a retail food store on the site subject of this application that was to measure approximately 3,390m² (gross internal floor area), with approximately 1672m² of the net floorspace being utilised for the sale of convenience goods and no more than 418m² of the net floorspace being utilised for the sale of comparison goods. The three retail units proposed by this application have a gross internal floor area that is 231m² smaller than the previously approved development. It is relevant to note that Angus Council confirmed that on 1 August 2014 that works had commenced on site to implement the 2009 permission. This ensures that the application site benefits from a planning permission which could be implemented at any time in the future. In this respect the presence of the extant permission which provides for a Class 1 retail development on the site is a significant material consideration in the determination of the current application.
- 8.5 By virtue of the extant planning permission the application site is identified as Opportunity Site M9 in the Angus Local Development Plan. This policy safeguards the land for retail development in accordance with the extant planning permission (09/01353/FULL) or Class 4 (Business) uses which are compatible with surrounding activities. The proposed retail development differs from planning permission 09/01353/FULL and does not constitute a Class 4 use therefore the current application does not fully comply with the requirements of Policy M9 but in general terms the proposal would be consistent with the land uses outlined in Policy M9 which covers the site as it makes provision for retail development
- 8.6 Although the principle of development is considered to be in accordance with Policy M9 in terms of the land use proposed consideration must be given to the compatibility of the proposal with other relevant policies. In terms of the type of development proposed, the most relevant Local Development Plan policies are TC17 which seeks to protect and enhance the scale and function of town centres which includes Montrose and TC19 which deals with proposals for retail and other town centre uses over 1000m² gross floorspace on the edge of or outside of defined town centres. The proposed retail units have a cumulative floorspace of over 1000m² gross floorspace and are located approximately 1km to the north of Montrose town centre therefore the application site constitutes an out of centre site as defined in the ALDP. A Retail Statement has been provided in support of the development and it is appropriate to assess the development and associated statement against the provision of policies TC17 and TC19.
- 8.7 Policy TC19 sets out that a sequential approach should be taken to site selection. It has been demonstrated that there are no available or vacant premises within the defined town centre which are of a sufficient scale to accommodate the proposed development. The largest current vacant unit within the defined town centre of Montrose measures approximately 177m² which equates to 38% of the floor area of unit three. In relation to edge of centre sites surrounding the defined town centre there are no available sites that could accommodate the proposed development. There are also no commercial centres identified within the

development boundary for Montrose. Furthermore, there are also no commercial centres identified within close proximity and out with the development boundary for Montrose. In the absence of any town centre or edge of centre sites, I consider that this location is acceptable in terms of the sequential test.

- 8.8 The Retail Statement submitted in support of the application seeks to quantify available expenditure to identify the scope for the provision of additional retail floorspace and the likely level of trade that may be diverted from existing shops to the proposed development. It also provides an assessment of the likely impact of that trade diversion on the vitality and viability of Montrose town centre and other town centres within the catchment area of the proposed store, including Brechin. The Retail Statement has been undertaken using three separate options which all include the largest unit being occupied by Home Bargains. This occupant operates on a 60% convenience / 40% comparison floorspace split. Within the convenience floorspace they would normally retail a minimum 30% as food. The three options are set out below:

Option	Floorspace	Turnover
A	Home Bargains trading with 1042m ² convenience net floor space and 700m ² comparison net floorspace with the other two smaller units encompassing 892m ² of net floorspace for convenience retailers	£11.42m (£8.62m convenience and £2.8m comparison)
B	Home Bargains trading with 1042m ² convenience net floor space and 700m ² comparison net floorspace with the other two smaller units encompassing 892m ² of net floorspace for comparison retailers	£10.62m (£4.16 convenience and £6.36m comparison)
C	Home Bargains trading with 1042m ² convenience net floor space and 700m ² comparison net floorspace with one of the smaller retail units being occupied by a convenience retailer measuring approximately 520m ² net floorspace and the remaining unit one of the unit being occupied by a comparison retailer measuring approximately 372m ² net floorspace	£11.04m (£6.76m convenience and £4.28m comparison)

- 8.9 Montrose is identified to be the main retail centre within the catchment with the largest amount of floorspace selling convenience and comparison goods. It also has the widest range of shops and services and a stable vacancy rate of around 9% for almost 10 years; and there continues to be good levels of footfall. On this basis, it has been assessed that the town centre is continuing to perform reasonably well. The major convenience outlets are identified as all being out with the town centre (Tesco, Aldi and Lidl). The submitted information predicts that Option A would draw £0.83m from Montrose town centre with £5.4m diverted from the major convenience outlets; Option B would draw £1.2m from Montrose town centre with £4.33m diverted from the major convenience outlets and Option C would draw £1.25m from Montrose town centre with £4.99m diverted from the major convenience outlets. The above figures demonstrate that the largest proportion of trade will be diverted from the major convenience outlets with the retail impact within Montrose town centre arising from options A, B or C are considered to be between 3.1% to 4.2%. When comparing this retail impact against that of the approved retail development at the site this identified a 3.4% retail impact. The identified levels of retail impact are considered to be broadly comparable with that which was previously considered to be acceptable.

- 8.10 It is considered that the Retail Statement gives a reasonable indication of potential retail impact. This indicates there is a significant degree of comparison expenditure leakage. Based on the scale of the retail floorspace to be created from the development, I accept the overall findings that this level of impact should not undermine the vitality or viability of Montrose town centre. It is also accepted that the development would not have a significant adverse impact on the vitality or viability of other town centres, including Brechin. In addition I recognise that the provision of a new operator may attract people to the town who do not currently shop there, reinforcing Montrose's role as a shopping destination and retaining/attracting a higher proportion of available retail expenditure. Overall I consider that the proposal is acceptable in terms of its retail impact.

- 8.11 Policy TC19 also requires development proposals to tackle deficiencies in existing provision in qualitative or quantitative terms. In relation to this matter the Retail Assessment identifies that there is a slight convenience expenditure leakage of just over £3.5 million but a considerable comparison expenditure leakage of just over £28.5 million. A significant level of locally derived expenditure is spent in other destinations, most notably Dundee. Whilst it would not be possible to clawback all of this leaked expenditure, the proposed retail development would constitute new convenience and comparison floorspace that would be able to clawback a reasonable proportion (around 11% to 12%) of this leaked expenditure. This would assist in addressing a deficiency in both quantitative and qualitative terms. It is considered that the Retail Statement submitted gives a reasonable indication of potential retail impact. On this basis I consider that the retail development could be considered to tackle a quantitative and qualitative deficiency in existing shopping provision in Montrose.
- 8.12 The applicant has submitted a Transport Assessment in support of the planning application. This considers the accessibility of the site for modes of traffic other than the private car and the capacity of the road network to accommodate traffic associated with the development. The applicant's Transport Assessment concludes that the development has good accessibility for pedestrians and cyclists, and that the site is well served by public transport. It also concludes that vehicular traffic associated with the development can be accommodated without having to make any improvements to the local road network. Overall I consider that the site has reasonable accessibility for pedestrians and cyclists and it is reasonably well served by public transport with a number of bus services on Brechin Road and nearby North Esk Road. Whilst the site is some distance from the town centre it is close to a number of residential areas and is reasonably well linked to those areas by footways/ cycleways. There is a light controlled pedestrian crossing to the south of the site on Brechin Road. The applicant proposes to include cycle parking within the development. Buses pass the site on Brechin Road and there are existing bus stops/ shelters to both the north and south of the road. In addition there are bus routes and bus stops on North Esk Road.
- 8.13 Overall I consider that the site has reasonable accessibility to modes of transport other than private car. In respect of the local road network the Roads Service has reviewed the Transport Assessment and accepts that based on the nature of the retail development proposed there is capacity to accommodate the development without requiring any improvements to the existing local road network. Within the application site is an existing advance directional sign which would require to be relocated as it provides information on the existing road layout. The Roads Service has also confirmed that the car parking associated with the development is in accordance with the required standard. The Roads Service has indicated that there is adequate cycle parking within the development but this requires to be covered, signed and lit. The matters raised by the Roads Service can be addressed by planning conditions.
- 8.14 The provision of a retail development at this location is considered to be compatible with surrounding land uses and there is no unacceptable impact on the built and natural environment arising from the development. Policy DS4 seeks to maintain and improve environmental quality and avoid unacceptable impact on the amenity of existing or future occupiers of adjoining or nearby properties. In relation to amenity impacts there are residential properties located to the north and west of the application site. The buildings have been positioned on site in a manner that ensures the distances between the buildings accord with council design guidance for distances between houses. The proposed layout allows for the existing landscaped bund at the north boundary of the site to be retained and augmented by additional planting as well as the mature trees adjacent to the west boundary of the site.
- 8.15 A Noise Impact Assessment has been submitted in support of the application which concludes that based on the layout of the retail units and service yard a 4m high close boarded security fence is necessary to reduce noise from the serving yard to an acceptable level. The Environmental Health Service has considered the Noise Impact Assessment and has confirmed that the recommendations require to be implemented and it is proposed to address this matter by planning condition. The Environmental Health Service has also advised that noise generation and external light emissions from the proposed development could impact on the amenity of existing properties but can be adequately controlled by planning conditions and contained within acceptable limits.

- 8.16 Development on land known or suspected to be unstable or contaminated will only be permitted where it can be demonstrated that any actual or potential risk to the proposed use can be overcome. The Council's Environmental Health Service has reviewed available information, including the applicants Preliminary Environmental Report, in this regard and has advised further intrusive investigations will be required given the conclusions of the applicants Environmental Report. In accordance with the consultation response from the Council's Environmental Health Service, suspensive planning conditions are proposed requiring a site-specific risk assessment and a detailed remediation strategy. The remediation strategy should be fully implemented and a validation report submitted confirming that all necessary remediation works have been undertaken before the development is occupied. Having regard to the location of the site and its proximity to neighbouring land uses, I am satisfied that the proposed conditions would ensure that the proposal would not give rise to any significant or unacceptable amenity impacts.
- 8.17 The physical characteristics of the proposed development fall to be considered against Policy DS3 of the ALDP. The criteria of DS3 require development proposals to 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. The Design Statement suggests that the design solution would result in the provision of a high quality building in a prominent location. The proposed building would be of modern design with its massing broken up through variations in its height and the inclusion of different colours of wall materials. The frontage of the building contains projecting elements that also breaks up its massing. The proposed new development should be seen in the context of the surrounding townscape; neighbouring uses are predominantly residential but the townscape in the wider area is more mixed. The orientation of the building within the site on an east to west axis allows with car parking to the south and ensures that the store servicing area can be directly accessible from the existing access road. This arrangement would not involve delivery vehicles entering through the car park area. Materials are of a utilitarian nature but in view of the variety of external finishes within the surrounding townscape, the proposed contemporary appearance would not appear out of place with the stores surroundings. The design solution in general is considered to be acceptable in response to the constraints of the site and adjacent land uses.
- 8.18 The landscaping proposals for the site would utilise a mix of native tree and shrub planting along with the inclusion of a beech hedge along the roadside frontage of the site. The landscaping proposals are considered to be generally acceptable but are subject to a condition regarding implementation and maintenance. A Tree Survey & Arboricultural Constraints Assessment has been undertaken to ascertain the impacts of the development on the existing trees at the west boundary of the site. The assessment advises that as long as a construction exclusion zone is defined around the root protection areas of the trees the proposed development could be undertaken in a manner that allows for the retention of the trees at the west boundary of the application site. The proposal is therefore considered to be in compliance with the requirements of Policy PV7.
- 8.19 Policy PV15 deals with drainage infrastructure and indicates development proposals within Development Boundaries will be required to connect to the public sewer where available. It also indicates that all new development will be required to provide Sustainable Urban Drainage (SUDs) to accommodate surface water drainage. The Drainage Impact Assessment submitted with the application confirms that foul water drainage shall connect to existing sewers with surface water drainage from the site treated and attenuated on site prior to being discharged to ground through an appropriately sized soakaway. The Roads Service has considered the Drainage Impact Assessment and is satisfied the surface water drainage arrangements for the site are acceptable and on this basis has offered no objections in relation to drainage or flooding matters.
- 8.20 There are a number of representations in objection to the proposal. The substantive issues and material planning considerations raised in those letters have been considered above. There are no material considerations raised in those letters that cannot be addressed by planning conditions or that justify refusal of the application contrary to the provisions of the development plan.
- 8.21 In conclusion, regard has been given to the Development Plan, to the information provided in relation to the application and comments received from third parties and consultees. Account has also been taken of all relevant material considerations. The application proposes a retail development on a site that is out of centre. Whilst such sites are not generally favoured in terms of development plan policy, in this case it has been demonstrated that there are no

suitable sites either within or on the edge of the town centre capable of accommodating this scale of retail development. The proposal is broadly consistent with the land use allocation for the site which makes provision for retail development. Information submitted in support of the application indicates that a development of this scale can be accommodated without having a significant adverse impact on the vitality and viability of town centres and further suggests that a new store will add to competition and choice and will in part address qualitative and quantitative deficiency. Consultees have raised no significant issues regarding the proposal and I consider that impacts associated with the development could be controlled by the proposed planning conditions. The proposal is considered to accord with the Development Plan subject to appropriate planning conditions. There are no material considerations that justify refusal of the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission, 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 recommendation 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 reason, and subject to the following condition(s):

Reason(s) for Approval:

The proposed development complies with relevant policies of the development plan. The development would not lead to any unacceptable retail, traffic or visual impact. There is an extant planning permission for a retail development on the site and there are no material considerations that justify refusal of the planning application contrary to the provisions of the development plan.

Conditions:

1. That no development in connection with the planning permission hereby approved shall take place until the following details have been submitted to and approved in writing by the Planning Authority:
 - (a) An external lighting strategy which shall address light trespass and glare. The submitted strategy shall take account of the technical guidance issued by the Institution of Lighting Engineers entitled "Guidance Notes for the Reduction of Obtrusive Light, 2005 Edition". The approved strategy shall be fully implemented prior to any of the retail units being brought into use and shall remain in effect throughout the lifetime of the development.
 - (b) A comprehensive contaminated land investigation report. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution "The Investigation of Potentially Contaminated Sites – Code of Practice" (BS 10175: 2011). The report must include a site specific risk assessment of all relevant pollutant linkages, as required in Scottish Government Planning Advice Note 33. Where the contaminated land investigation report identifies any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation strategy shall be submitted for the written approval of the Planning Authority. No works, other than investigative, demolition or site

clearance works shall be carried out on the site prior to the remediation strategy being approved by the Planning Authority. Prior to the occupation of the development the remediation strategy shall be fully implemented and a validation report confirming that all necessary remediation works have been undertaken shall be submitted for the written approval of the Planning Authority.

- (c) A scheme for the relocation of the advance directional road sign that is contained within the application site. Thereafter the sign shall be relocated in accordance with the approved details prior to any of the retail units being brought into use.

Reason: To ensure lighting provision has no adverse impact on amenity; in order to ensure that the site is suitable for the proposed use and in order to ensure there is no unacceptable risk of contaminated land to the prospective users of the site and in the interests of road safety.

2. That the acoustic barrier to be erected around the boundaries of the service yard shall be installed in accordance with the details specified in Chapter 6 of the Noise Impact Assessment: Proposed Retails Development – Brechin Road, Montrose by KSG Acoustics Ltd dated 30th May 2017. For the avoidance of doubt the acoustic fence shall be fully installed to a height of 4m prior to any of the retail units being brought into use and shall be maintained for the life of the development.

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

3. That noise from any ventilation, extraction or refrigeration plant associated with the development shall not give rise to a noise level assessed with windows open within any dwelling or noise sensitive building in excess of that equivalent to NR curve 35 between 0700hrs and 2200hrs and NR curve 25 at all other times.

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

4. That noise from the service yard use including deliveries and waste collection shall not give rise to a noise level assessed with windows open in any dwelling or noise sensitive building in excess of 45dbA L_{max,f} on fast response, between 2300hrs and 0700hrs.

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

5. That all construction activity that is audible out with the boundary of the site shall only take place between the hours of 0700hrs and 1900hrs Monday to Friday and 0800hrs and 1300hrs on Saturday. No such activity shall take place on a Sunday.

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

6. That the proposed cycle racks as illustrated on Drawing No. 4163/202 Rev. D: Site Plan as Proposed by Bracewell Stirling Consulting dated 03.06.2017 shall be installed prior to any of the retail units being brought into use and shall be maintained for the life of the development. For the avoidance of doubt the cycle racks shall be covered, lit and adequately signed.

Reason: In order to ensure adequate provision for cyclists.

7. That before development commences protective fencing shall enclose the protected rooting zones of the trees to be retained as detailed on Drawing No. KC-TP-01: Tree Protection Plan, as contained within the Tree Survey and Arboricultural Constraints, Brechin Road, Montrose by Alan Motion, Tree Consulting Ltd dated 24 May 2017. This fencing should remain in situ until development is completed and there shall be no passage of vehicles; excavations; storage of soil, plant, vehicles or other materials within the protective fencing. For the avoidance of any doubt none of the existing trees identified on the aforementioned drawing shall be felled, topped, lopped or otherwise interfered with without advance discussion with and without the prior written consent of the Planning Authority.

Reason: In order to prevent unnecessary damage to trees on site.

8. That the landscaping details and boundary enclosures as shown on Drawing No. 4163/202 Rev. D: Site Plan as Proposed by Bracewell Stirling Consulting dated 03.06.2017 shall be completed by no later than the end of the first planting season following the opening of any of the retail units. Any plants or trees that within a period of 5 years from the completion of development die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species.

Reason: To ensure the implementation of a satisfactory scheme of landscaping that will help to integrate the development into the local landscape in the interests of visual amenity.

9. That no more than 1592 square metres of net floorspace hereby approved shall be used for the sale of comparison goods. For the purposes of this permission comparison goods are defined as books, clothing and footwear, furniture, floor coverings and household textiles, radio, electrical and other durable goods, hardware and DIY supplies, chemist goods, jewellery, silverware, watches and clocks, recreational and other miscellaneous goods. The retail units shall be not be sub-divided to form more than three units or have mezzanine floors introduced.

Reason: In order to clarify the terms of this permission and to ensure that the retail impacts remains within the terms under which the application has been considered in order to safeguard the vitality and viability of Montrose town centre.

**STEWART BALL
HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES**

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: 14 July 2017

APPENDIX 1: LOCATION PLAN

APPENDIX 2: SUMMARY OF APPLICANTS SUPPORTING INFORMATION

APPENDIX 3: DEVELOPMENT PLAN POLICIES

Appendix 1: Location Plan

Appendix 2 – Summary of Applicant Supporting Information

Retail Statement considers that there are positive benefits associated with the proposals, which outweigh any minor impacts identified. The proposal is not significantly different to the extant planning permission for a retail development on the site; is consistent with the LDP which allocates the site for retail/Class 1; meets the policy criteria tests in the LDP set out in Policy TC19 having regard to sequential and impact matters; will assist to address current deficiencies in retail provision and help to stem leakage; will improve customer choice and accessibility; will provide additional employment opportunities and will see a long term vacant site be brought into economic use.

Design Statement including 3D visualisations indicates the development will deliver a number of significant benefits to the local economy which include enhancement and increased use of a previously under-utilised site; regeneration and investment into the existing retail and commercial area; creation of new jobs available to local people; further job creation through construction, maintenance and security; retention of existing retail choice and enhancement of qualitative retail offer; scope for associated external works improvements, with opportunities for walking and cycling to create accessible linkages and journeys, including public transport.

Noise Impact Assessment This assessment has considered delivery vehicles manoeuvring in the service yard, including unloading, and noise from fixed plant. It is considered that noise associated with activities in the service yard is most likely to attract adverse comment but that this risk can be mitigated by the implementation of appropriate mitigation measures which include the provision of a 4m high close boarded fence that is suitable for acoustic separation purposes is included around the boundary of the service yard. Mitigation measures should also be incorporated with regards to noise from fixed plant; construction noise and operational noise.

Flood Risk Assessment concludes that any future flooding will pose no threat to the proposed development. Flood maps have been used to determine the location of fluvial and tidal flood plains under extreme flood events and it has been determined that the proposed site is located outside these zones. Borehole information has been checked and groundwater is not considered to be an issue. Finally, the surface water drainage for the scheme has been designed to ensure that pluvial, or overland, flooding does not occur. It has therefore been concluded that the flood risk of the proposed site is negligible.

Drainage Strategy Plan confirms the need for a suitable 'Sustainable Urban Drainage Scheme' has been recognised and incorporated within the design proposals for the surface water system. The surface water will be attenuated before utilising the existing connection to discharge into the Scottish Water combined sewer to the east of the site as agreed. Full attenuation will be provided for both the 1 in 30 year and 1 in 200 year storm to ensure no flooding will occur on site. In accordance with general SUDs principles and Angus Council requirements there will therefore be no detrimental effect on the development or surrounding properties. A traditional drainage system will collect the foul water which will be discharged directly into the Scottish Water combined sewer. The drainage infrastructure associated with the development will be maintained by the owner of the site.

Transport Statement concludes that the development location and proposals are compliant with relevant local and national policy, the application site is located in close proximity to well established walking and cycle routes; existing bus stops are located within a short walking distance of the application site on Brechin Road and the A92 North Esk Road providing access to a range of bus services; the site lies in close proximity and with good access to both the strategic and local road networks; the development can be satisfactorily accessed via a priority junction from the spine road which in turn links to the existing Brechin Road/ Sharpe Place roundabout; all junctions within the study area are predicted to continue to operate satisfactorily for the anticipated first full year after opening (2019) including the traffic associated with the Tayock and ALDI committed developments and proposed class 1 retail development; the provision of 172 car parking spaces complies with both the SCOTS guide and SPP maximum standards.

Tree Survey & Arboricultural Constraints Assessment advises that the existing landscaped bund along the northern boundary can be retained. The trees at the west boundary of the site can also be retained and these must be protected by barriers and/or ground protection prior to commencement of any development works, including demolition.

Preliminary Environmental Assessment Report indicates given the historical and current land use, there is a Low-Moderate risk potential for deleterious levels of contamination to be present on within onsite soils. The site is not within an area that is of higher risk of river or coastal flooding, according to SEPA information. The site is at risk of surface water flooding in the south 17western part of the site, as seen during the site reconnaissance visit. The site lies out with a higher probability radon affected

area, and therefore no radon gas protective measures are necessary within the site area. Should any unusual odours or seepages be encountered on site during the construction stage, then these should immediately be brought to the attention of the on-site engineer who should then arrange for the relevant sampling and testing to be carried out. Additionally, should there be significant changes in the proposed endues of the site, a reappraisal and reconsideration should be made to the CSM, and appropriate exploratory/investigative analysis be conducted.

Appendix 3 – Development Plan Policies

Angus Local Development Plan

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 TC17: Network of Centres

Angus Council will seek to protect and enhance the scale and function of the centres as set out in Table 2 below.

A town centre first policy is applied to uses including retail, commercial leisure, offices, community and cultural facilities that attract significant numbers of people. Support will be given to development proposals in town centres which are in keeping with the townscape and pattern of development and which conform with the character, scale and function of the town centres.

All development proposals within a Commercial Centre will have to satisfy criteria within Policy TC19 Retail and Town Centre Uses.

Policy TC19: Retail and Town Centre Uses

Proposals for retail and other town centre uses* over 1000 m2 gross floorspace (including extensions) on the edge of or outside of defined town centres (including in out of town locations) will be required to submit relevant assessments (including retail/town centre impact and transport assessments) and demonstrate that the proposal:

- has followed a sequential approach to site selection, giving priority to sites within the defined town centre before edge of centre, commercial centre or out of centre sites which are, or can be made accessible;
- does not individually or cumulatively undermine the vibrancy, vitality and viability of any of the town centres identified in Table 2 in Angus;
- tackles deficiencies in existing provision, in qualitative or quantitative terms; and
- is compatible with surrounding land uses and there is no unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure.

Proposals for retail and other town centre uses* under 1000m² gross floorspace (including extensions) on the edge of or outside of defined town centres may be required to submit relevant assessments (including retail / town centre impact, transport and sequential assessments) where it is considered that the proposal may have a significant impact on the vibrancy, vitality and viability of any of the town centres in Angus.

Policy PV7: Woodland, Trees and Hedges

Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).

Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:

- protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;
- be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;
- ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;
- ensure new woodland is established in advance of major developments;
- undertake a Tree Survey where appropriate; and
- identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.

Angus Council will follow the Scottish Government Control of Woodland Removal Policy when considering proposals for the felling of woodland.

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.

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.

M9: Opportunity Site – Lochside Distillery, Brechin Road

Land at the former Lochside Distillery provides an opportunity for retail development in accordance with the planning permission Ref: 09/01353/FULL or Class 4 (business) uses which are compatible with surrounding activities.

Development proposals should be supported by a Drainage Impact Assessment.