

ANGUS COUNCIL

5 DECEMBER 2019

PLANNING APPLICATION – FACTORY ELLIOT INDUSTRIAL ESTATE ARBROATH

GRID REF: 362227 : 739807

REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES

Abstract:

This Report sets out proposed conditions for planning application No 18/00975/FULM following the decision of Angus Council, at its meeting on 17 October 2019, in relation to the planning application for a retail development, comprising food and non-food units (Class 1), drive thru units (Class 3 and Sui Generis) and ancillary development including access, drainage, landscaping and other associated works for Brackenbrae Investments Limited at Factory, Elliot Industrial Estate, Arbroath.

1. RECOMMENDATION

It is recommended that Council approves the proposed planning conditions set out in Appendix 1.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

3. BACKGROUND

- 3.1 At its meeting on 17 October 2019 Angus Council approved the above application for planning permission ([Report 347/19 refers](#)) for the undernoted reason and subject to conditions being submitted to this meeting.

Reason for Approval:

Although contrary to the provisions of the Development Plan, the proposal was considered to be compatible in land use terms with neighbouring land uses and would improve the qualitative retail offer in Arbroath. The proposal was considered to present a significant economic benefit to Arbroath and a welcome investment. The significant economic benefit was considered to outweigh the provisions set out in the Development Plan and justified a departure from it.

- 3.2 The applicant proposed planning conditions to control retail matters and those were reported to, and taken into account by Council when it resolved to grant planning permission. Those conditions are reproduced as conditions 3 to 8 below. Additional conditions are proposed in order to secure the provision of further information that is necessary to ensure that the development is undertaken in an appropriate manner; to ensure appropriate phasing and provision of infrastructure; and to ensure that the development is undertaken and operated in a manner that does not give rise to unacceptable impact on amenity. The conditions address matters that have been raised through consultation on the planning application as set out in [Report 347/19](#), and have been agreed with the applicant. The proposed conditions are consistent with government policy set out in Circular 4/1998 which deals with the use of conditions in planning permissions.

4. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The decision to grant 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 reason 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.

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.

REPORT AUTHOR: KATE COWEY

EMAIL DETAILS: PLANNING@angus.gov.uk

DATE: 25 NOVEMBER 2019

APPENDIX 1 – PROPOSED PLANNING CONDITIONS

APPENDIX 1

Planning application: 18/00975/FULM

Proposed 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) A construction phasing plan. That plan shall include detail for the phasing and completion of the retail units, road improvements and all infrastructure and landscaping associated with the development. Where that plan provides for the construction of buildings in separate or discreet phases, it shall include provision for any undeveloped land to be managed and maintained until it is developed. The infrastructure works, insofar as they relate to roads, access, public transport infrastructure, cycle, motor cycle and car parking, service areas, footpaths, landscaping, boundary treatments, acoustic barrier and drainage shall be completed prior to the occupation or use of any part of the development.
 - (b) Details of surface water disposal arrangements for the development along with details for their future maintenance. This should include detail of the direction of flood flows through the site in times of exceedance. The approved surface water disposal arrangements shall be provided in full prior to the occupation or use of any part of the development and maintained thereafter in accordance with the approved details.
 - (c) A detailed levels survey of the site. The detailed drawings shall show finished ground and floor levels of the proposed development relative to existing ground levels; neighbouring land/properties and a fixed ordnance datum point. Thereafter the development shall be carried out in accordance with the approved details.
 - (d) Details of all boundary treatments. This should include provision for a potential pedestrian access between the application site and the neighbouring commercial centre to the east. It should also include revised details for an acoustic barrier at the southwest boundary of the site. The information regarding the acoustic barrier shall include elevation and section drawings along with information to demonstrate that the barrier provides mitigation in accordance with the recommendations detailed in the Vibrock Additional Noise Information dated 3 May 2019. Thereafter the boundary enclosures shall be provided in accordance with the approved phasing plan and specifically the acoustic barrier shall be formed prior to the use of the service yard or occupation of Unit A.
 - (e) A scheme of hard and soft landscaping, including a schedule of plants to comprise species, plant sizes, numbers and density. The submitted scheme shall include detailed proposals for the future management and maintenance of all hard and soft landscaped areas and for all unadopted infrastructure within the development hereby approved. Thereafter the landscaping areas and unadopted infrastructure shall be managed and maintained in accordance with the approved details in perpetuity thereafter. All planting indicated on the approved plans shall be carried out in the first planting season following commencement of use of the car park or at earlier stages and any plants or trees which within a period of five years from the practical completion of the development die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
 - (f) A revised layout plan that provides for a minimum of two parking spaces for motorcycles and two parking spaces for cyclists within the curtilage of both POD 1 and Drive Thru 1. That plan shall also make provision for all cycle parking within the development to be lit, covered and sign posted in accordance with details approved by the Planning Authority. The cycle and motor cycle parking shall be provided in accordance with the approved details and retained thereafter.

Reason: In order that the planning authority may control the specified details in the interests of amenity, environmental quality, promotion of sustainable modes of transport and road safety; and to ensure the development is undertaken and maintained in accordance with the approved details, and in the manner that is capable of delivering the benefits that justified approval contrary to development plan.

2. That before occupation or use of any part of the development the following alterations and improvements to the public road shall be completed in accordance with details approved by Angus Council: -
 - (a) a new signalised junction between the site and the A92. That junction shall include Toucan crossing facilities to accommodate both pedestrians and cyclists;
 - (b) permanent closure and removal of the existing junction between the A92 and the private road on the west boundary of the site before the new signalised junction is brought into use;
 - (c) relocation of the bus shelter on the north side of the A92 Dundee Road;
 - (d) a footway on the south side of the A92 Dundee Road between the proposed traffic signals at the site access and the closest westbound bus stop on Dundee Road.

Reason: In order to ensure the provision of the necessary road junction in a timely manner and in the interests of road safety.

3. The total gross retail floorspace of the development shall not exceed 8,891sqm, of which the net retail sales floorspace shall not exceed 6,864sqm. None of the retail units hereby approved shall be sub-divided or enlarged (including by inclusion of a mezzanine) without the grant of planning permission following submission of an application to the planning authority. No retail unit shall have a gross external floorspace that is smaller than 650sqm, with the exception of one pod unit of 139sqm.

Reason: In order to clarify the terms of this permission and to ensure that the retail impacts remain within the terms under which the application has been approved in order to minimise adverse impact on the vitality and viability of Arbroath town centre.

4. The total net convenience (food) retail sales floorspace of the development shall not exceed 2,557sqm. The total net comparison (non-food) retail sales floorspace shall not exceed 4,307sqm.

Reason: In order to clarify the terms of this permission and to retain control over the format of the retail development at the site in order to minimise adverse impact on the vitality and viability of Arbroath town centre.

5. The non-food retail units (identified as units B – E and G on the approved plan) hereby approved shall be used solely for the sale of and display of the following goods, DIY and home improvement supplies, major household appliances (electric or not), audio-visual equipment, household textiles and furnishings, furniture and floor coverings, garden furniture and equipment and plants. None of the non-food retail units hereby approved shall be used for the sale of convenience goods, clothing and footwear, jewellery, silverware, watches and clocks, toys and sports goods, except for those outlined below.

Reason: In order to clarify the terms of this permission and to retain control over the format of the retail development at the site in order to minimise adverse impact on the vitality and viability of Arbroath town centre.

6. Sales of the prohibited items under condition 5 are permitted on an ancillary basis up to a maximum of 20% of the net sales area within unit A and up to a maximum of 5% in Unit F. In addition, the floorspace for each individual category shall not exceed 5% of the net sales area of each unit.

Reason: In order to clarify the terms of this permission and to retain control over the format of the retail development at the site in order to minimise adverse impact on the vitality and viability of Arbroath town centre.

7. Notwithstanding condition 5, one unit is permitted to retail sports goods up to 900sqm net retail floorspace.

Reason: In order to clarify the terms of this permission and to retain control over the format of the retail development at the site in order to minimise adverse impact on the vitality and viability of Arbroath town centre.

8. Notwithstanding condition 5, within Unit G the following goods are permitted: Convenience goods up to a maximum of 481sqm, non-fashion clothing up to a maximum of 50sqm and toys/sports goods up to a maximum of 200sqm. These additional goods permitted within Unit G can only be sold by a single retailer on an ancillary and/or incidental basis to the main goods permitted to be sold in this condition. Non-fashion clothing is defined as: Slippers, holiday footwear, party outfits, dressing gowns, baby products, pyjamas and nightgowns, underwear including socks.

Reason: In order to clarify the terms of this permission and to retain control over the format of retail development at the site in order to minimise adverse impact on the vitality and viability of Arbroath town centre.

9. That no loading or unloading of heavy goods vehicles shall take place between 2300hrs and 0700hrs.

Reason: In order that the amenity of nearby occupied premises shall be adequately safeguarded.

10. That noise from the development shall not exceed the noise rating levels stated below at any residential property or caravan when measured and corrected in accordance with BS4142:2014: -

- LAeq 1 hour of 50dB between 0700hrs and 2300hrs; and,
- LAeq 15 Minutes of 40dB between 2300hrs and 0700hrs.

Reason: In order that the amenity of nearby occupied premises shall be adequately safeguarded.

11. Noise from any fixed plant or equipment shall not exceed NR curve 35 between 0700hrs and 2300hrs and NR curve 25 at all other times as measured within any neighbouring residential property or caravan, with windows slightly open for ventilation.

Reason: In order that the amenity of nearby occupied premises shall be adequately safeguarded.

12. Noise associated with the construction of the development including the movement of materials, plant and equipment shall not exceed the noise limits shown in table A below for the times shown. At all other times noise associated with construction operations shall be inaudible at any sensitive receptor. For the avoidance of doubt sensitive receptors includes all residential properties, caravans, hospitals, schools and office buildings.

Table A: Construction Noise Limits Day Time Average Period Noise Limit

Day	Time	Noise Limit
Monday – Saturday	0700 – 0800	60 dBA Leq (1hr)
Monday – Saturday	0800 – 1800	70 dBA Leq (10hrs)
Monday – Friday	1800 – 1900	60 dBA Leq (1hr)

Reason: In the interest of the residential amenity of nearby noise sensitive properties.

13. Vibration levels associated with the construction of the development shall not exceed the following limits: -

- 1mms-1 PPV at existing residential or educational properties.
- 3mms-1 PPV at existing commercial or industrial properties.

The above vibration limits relate to maximum PPV ground borne vibration occurring in any one of three mutually perpendicular axes. Vibration is to be measured on the

foundation or on an external façade no more than 1m above ground level or on solid ground as near the façade as possible.

Reason: In the interest of the residential amenity of nearby sensitive properties.

14. That the existing Core Path that runs through the site shall not be closed to public access until a scheme for its rerouting during construction works has been submitted to and approved in writing by the Planning Authority. Thereafter the approved route shall be delineated and formed in accordance with the approved details before the existing Core Path is closed to public access and the revised route shall be available at all times until the new footpath/cycleway is provided between Dundee Road and Peasiehill.

Reason: In order to ensure the provision of an acceptable alternative footpath connection between Dundee Road and Peasiehill during any construction period that requires closure of the core path.