

**AGENDA ITEM NO 4**

REPORT NO 347/19

ANGUS COUNCIL

17 OCTOBER 2019

**PLANNING APPLICATION – FACTORY ELLIOT INDUSTRIAL ESTATE ARBROATH**

GRID REF: 362227 : 739807

**REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES****Abstract:**

This report deals with planning application No 18/00975/FULM for a proposed 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. This application is recommended for refusal.

**1. RECOMMENDATION**

It is recommended that the application be refused for the reasons given in Section 10 of this report.

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE 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. INTRODUCTION**

- 3.1 The applicant seeks full planning permission for a proposed 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 on land at Elliot Industrial Estate, Arbroath. A plan showing the location of the site is provided at Appendix 1.
- 3.2 The application site measures around 3.35 hectares in area and is located to the northwest of the Dundee Road (A92). The site sits between Elliot Caravan Park and the Westway retail park. It is relatively flat and is currently free from significant features with the factory building that occupied the site now demolished. A grassed landscape strip with a number of small trees is located adjacent to road frontage of the site and a stone wall forms the boundary to the A92. The site includes an unadopted section of road that runs in a north-westerly direction from the A92 that amongst other things serves the application site, the adjacent caravan park and a sewage works.
- 3.3 The application seeks planning permission for a proposed retail development consisting of food and non-food units (Class 1) and drive thru units (Class 3 and Sui Generis) with a combined gross floor area (GFA) of 9313sqm (including an external sales area and a mezzanine floor). The proposed development would involve the formation of a new signalised junction on the A92 which would provide access and egress from the site. The existing junction serving the unadopted road would be stopped-up. Seven sizeable retail units would be provided towards the north of the site (around 75m from Dundee Road). It is indicated that two would accommodate food retail uses, four would accommodate non-food retail uses and one is identified as a 'variety store'. Those units range from 650sqm – 2137sqm (GFA). Three smaller units would be provided along the frontage of the site. Two of those units would provide drive-thru/restaurant uses while the third would provide a small (139sqm) retail unit.

Parking for 333 cars including disabled bays and electric vehicles is proposed along with provision for motorcycles and bicycles. Pedestrian routes are shown to the Dundee Road and it is indicated that an existing bus stop and shelter would be relocated along the site frontage. The plans show indicative details of landscaped bunds to the site frontage. A 2.5m high timber acoustic fence atop a bund is proposed as the boundary to the caravan site.

- 3.4 The layout provides for the seven substantial retail units to the north of the site to be laid out in the form of a single detached unit and a terrace of six attached units. They would face towards the A92 and would be of fairly typical modern retail unit appearance with a maximum height of 9.2m. The drive-thru units and pod would have a single storey appearance with ridge heights of 5.2m. The external materials of the buildings would comprise cladding panels and areas of glazing.
- 3.5 A number of retailers/operators have been identified as potential occupants of retail units, or have written in support of the proposal expressing interest in the development. These are Aldi, B&M, Burger King, Costa, and Iceland.
- 3.6 The application has been subject of variation in respect of the internal road layout, parking provision, bicycle parking provision and the finished floor level of the proposed buildings.
- 3.7 The application has been subject of statutory neighbour notification and was advertised in the press as required by legislation.

#### **4. RELEVANT PLANNING HISTORY**

- 4.1 At its meeting on 11 December 2014 Angus Council considered the Proposed Angus Local Development Plan ([Report 501/14 refers](#)). At that time Council approved the Proposed Angus Local Development Plan with the site identified as an existing employment site and safeguarded for employment uses.
- 4.2 An objection to the safeguarding of the site for employment uses was subsequently submitted through the local development plan process. The land owner made representation indicating that the site was likely to become vacant within the next 24 months and that unless alternative uses were permitted it was likely to remain vacant. It was suggested that the site should be identified as an opportunity site for a number of uses including retail and food and drink. The Council unanimously determined that the site was deemed to be of a size, location and accessibility that merited its retention for Employment Use ([Report 346/15 Appendix 1](#)) and declined to modify the ALDP as requested by the land owner.
- 4.3 That matter was subsequently considered by a Scottish Government appointed Reporter at the examination of the ALDP in 2016. The Reporter concluded that it was not necessary or appropriate to amend the plan. In reaching that conclusion the Reporter stated: -

*'Although the council confirms that there is no commitment to bring forward the extension to Elliot Industrial Estate, their position with regard to employment land is more concerned with the loss of this particular site rather than any overall loss to the amount of land available. The site is in a serviced location and has good accessibility to the strategic road network. I agree that the site is important in terms of its opportunity to attract future business growth to the area and in contributing to the supply of sites, which should support a broad range of business activities. Over the 10-year period of the plan, the demand for business sites is likely to fluctuate, but the availability of readily serviceable land within accessible locations would support the economic aspirations of the plan.'*

*'There are very few residential properties near to the site, and retail warehousing, a caravan park and the industrial estate dominate the surroundings. With regard to retail strategy, the plan defines a network of centres, consistent with Scottish Planning Policy. Retail uses outwith Arbroath town centre are restricted to the commercial centre at Westway Retail Park and controlled by Policy TC19, which requires a sequential approach to site selection. The introduction of Class 1 retail at this site would not be consistent with the network or this overall approach.'*

- 4.4 A Proposal of Application Notice (ref: [18/00628/PAN](#)) in respect of a proposed retail development of food and non-food units including access, drainage and landscaping at the site was considered by the Development Standards Committee at its meeting on 9 October 2018 ([Report No. 326/18 refers](#)). Committee noted the key issues identified in that report and

identified the need for careful consideration of access to the site, with either a full size roundabout or traffic lights provided on the A92; and that provision should be made for connection between the proposed and existing retail site for pedestrians, cyclists and vehicles.

## 5. APPLICANT'S CASE

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

- Planning & Delivery Statement;
- Retail Statement;
- Response to Council Retail Analysis;
- Employment Land Audit;
- Economic Impact Statement;
- Design and Access Statement;
- Pre-application Consultation Report;
- Transport Assessment and additional information;
- Drainage Assessment;
- Flood Risk Assessment;
- Environmental Assessment;
- Noise Impact Assessment and additional information;
- Odour Impact Assessment;
- Employment Marketing Statement;
- Retail Marketing Statement;
- Utilities Delivery Statement; and
- Post Application Consultation Response Report;
- Proposed retail planning conditions.

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

## 6. CONSULTATIONS

6.1 **Angus Council – Roads** – has indicated no objection to the application subject to a number of conditions. It is indicated that traffic generated by the development can be accommodated on the public road network with no significant, detrimental impacts, as demonstrated by the traffic impact analysis contained with the submitted Transport Assessment. It has also accepted that there could be practical difficulties with providing a through route for vehicles between the application site and the neighbouring Westway retail park. It is noted that the nearest bus stops are located on the A92 where a bus service operates to and from Arbroath and Dundee City Centre. It is indicated that improvements should be made to the public transport infrastructure to facilitate the use of these services from the proposed development. In its capacity as Flood Prevention Authority the Service has offered no objection in relation to flooding and drainage although it is indicated that additional information on surface water disposal is required should the application be approved.

6.2 **Angus Council – Environmental Health** – offers no objection to the application in respect of amenity impacts subject to a number of conditions. In relation to land contamination, the Service has reviewed the submitted Environmental Report and is satisfied that the site does not pose a significant risk of harm from land contamination.

6.3 **Scottish Environment Protection Agency (SEPA)** – has offered no objection to the application in respect of flood risk. In relation to surface water drainage it has indicated this should be designed in accordance with Section 8 of CIRIA C7543 and SEPA's SUDS advice note for Brownfield sites.

6.4 **Scottish Enterprise** – has offered no comments on the proposal.

6.5 **Scottish Water** – has not objected to the application and has advised that there is currently sufficient capacity at the water and waste water treatment works for the proposed development.

6.6 **Community Council** – has offered its support to the application and has made comments in relation to a number of matters associated with the development. These matters include

roads, traffic, pedestrian safety and impacts on the town centre. *The full representation from the community council will be circulated to members of Angus Council and is available to view on the council's [Public Access](#) system.*

- 6.7 **Angus Council – Economic Development** – has indicated the required change of use from industrial development land into retail, would mean a loss of available industrial land. Currently there is a steady demand for industrial land across parts of Angus and supply is becoming relatively low. This potential loss of industrial land may have a negative impact on this situation albeit this land has remained undeveloped since the closure of the previous business on site. The development would attract new retailers to Arbroath and Angus which would increase retail competition and choice and reduce the need to travel to other centres. The development would create a number of new jobs however, it is likely that these will be in the main low skilled and low paid posts. The percentage of jobs paid below the real Living Wage in Angus is significantly worse than the rest of the council areas in Tayside.

## 7. REPRESENTATIONS

- 7.1 57 letters of representation have been received 40 are in support of the proposal with 14 raising objection and 3 offering general comment. The letters of representation will be circulated to Members of Angus Council and a copy will be available to view on the council's [Public Access](#) website.

- 7.2 The following matters have been raised as objections to the application and are discussed in the Planning Considerations section of this report below: -

- **The proposal is contrary to the Local Development Plan;**
- **The proposal would result in the loss of allocated employment land;**
- **The proposal fails to address any retail deficiencies within Arbroath;**
- **The proposal would have unacceptable impacts on the vitality and viability of Arbroath Town Centre;**
- **Road traffic and pedestrian safety impacts and adequacy of the transport assessment;**
- **Inadequate linkages between the proposed and existing retail park.**

- 7.3 The following matters have been raised in support of the application and are discussed in the Planning Considerations section of this report below: -

- **Employment opportunities would be created;**
- **Development would attract more visitors and extra investment into the town;**
- **Development would encourage residents to shop and eat locally to the benefit of the town;**
- **New retailers would be attracted to the town increasing retail competition and choice and reducing need to travel to other centres.**

## 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 2017)
- [Angus Local Development Plan](#) (ALDP) (Adopted 2016)

- 8.3 The following development plan policies are relevant to the determination of the application and are reproduced at Appendix 3 of this report: -

TAYplan (Approved 2017): Policies 1, 2, 3 and 5

Angus Local Development Plan (ALDP): Policies DS1, DS2, DS3, DS4, TC14, TC17, TC19, PV1, PV3, PV7, PV12, PV15 and PV18

- 8.4 Policy DS1 of the ALDP states amongst other things that the focus of development will be sites allocated or otherwise identified for development within the ALDP, which will be safeguarded for the use set out. It goes on to state that 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.
- 8.5 In this case the application site is located within the development boundary for Arbroath and it is identified as an existing employment site. The site is safeguarded for uses falling within use classes 4 (business), 5 (general industry) and 6 (storage or distribution). The proposed retail park development is not consistent with the identified use of the site.
- 8.6 ALDP Policy TC14 directs employment uses to employment land allocations and again seeks to safeguard land for those purposes. The policy recognises that in order to provide flexibility throughout the plan period and to meet emerging employment needs, there may be circumstances which would require consideration of other uses on existing employment areas. A number of criteria are identified to allow assessment of proposals for alternative uses.
- 8.7 In this case the proposed retail park development is not complementary or ancillary to an existing or proposed employment use; it would not undermine the operation of existing or proposed employment uses on the wider employment area; and, in-principle, the use would not result in an unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure.
- 8.8 The council's employment land audit 2018 indicates that there is around 167ha of available employment land across Angus with 39.7ha assessed as immediately available. Around 32.4ha is assessed as having major constraints. In Arbroath it is indicated that there is 32.14ha of available employment land but 21ha is assessed as being constrained. The remaining 11.14ha supply comprises 6.41ha across 8 plots at Kirkton Industrial Estate and 4.73ha across 3 plots at Elliot Industrial Estate. All 11 plots in Arbroath are identified as unconstrained and immediately available. The audit indicates that 2.71ha of employment land has been taken-up for development during the 2017/18 period, including 0.83ha in Arbroath.
- 8.9 The applicant has submitted information that indicates the application site has been actively marketed for employment related uses since 2017 (and for retail uses since early 2018) but there has been no interest in employment development. That information provides an analysis of available employment land in Angus and in Arbroath and suggests that, based on recent levels of employment land take-up, there is more than sufficient land to provide a 5-year supply of employment land. It further suggests that other sites, in Arbroath, Angus and Dundee have similar or better attributes than the application site and are more likely to attract prospective developers. In summary, the applicants supporting information suggests that there is no interest in developing this site for employment related use; there is very little demand for employment land; there is more than sufficient employment land to meet current and anticipated requirements; and there are other sites that could better meet any future demand.
- 8.10 As indicated in the planning history section of this report, the appropriateness of safeguarding the site for employment uses has previously been considered by Council and by a Scottish Government appointed Reporter. Despite representation from the land owner suggesting that alternative uses should be allowed on the site, including retail development, both the Council and the Reporter considered that the safeguarding of this particular site was appropriate. The Council unanimously determined that the site was deemed to be of a size, location and accessibility that merited its retention for employment use ([Report 346/15 Appendix 1](#)) and declined to modify the ALDP as requested by the land owner.
- 8.11 The Scottish Government appointed Reporter concluded that it was not necessary or appropriate to amend the plan. In reaching that conclusion and specifically in relation to the potential loss of employment land, the Reporter stated: -

*'Although the council confirms that there is no commitment to bring forward the extension to Elliot Industrial Estate, their position with regard to employment land is more concerned with the loss of this particular site rather than any overall loss to the amount of land available. The site is in a serviced location and has good accessibility to the strategic road network. I agree that the site is important in terms of its opportunity to attract future business growth to the area and in contributing to the supply of sites, which should support a broad range of*

*business activities. Over the 10-year period of the plan, the demand for business sites is likely to fluctuate, but the availability of readily serviceable land within accessible locations would support the economic aspirations of the plan.'*

- 8.12 In the period since the Reporters decision in 2016 the serviced nature of the site and its accessibility to the strategic road network has not changed. There are no other serviced employment land areas in the town that benefit from the same proximity to the dualled A92. While the employment land audit identifies that there are a number of employment land sites available throughout Arbroath, this is the only safeguarded site in the town that has an area in excess of 2ha with potential to accommodate an employment use requiring a reasonably sizeable area of land. There may have been no interest in developing the site for employment uses in the relatively short period since the ALDP was adopted and since marketing for that use commenced in 2017 but, as indicated by the Reporter, over the 10-year period of the plan demand for employment land is likely to fluctuate.
- 8.13 Arbroath is a Tier 2 settlement in terms of TAYplan and as such is expected to have potential to make a major contribution to the regional economy. The ALDP strategy seeks to guide the majority of development, including employment opportunities to locations within towns that have the capacity to accommodate new development well integrated with existing infrastructure. It would be undesirable to allow a situation where serviced employment land of sufficient size was not available in Arbroath to meet the needs of a business wishing to expand or relocate to the area. The site is safeguarded for employment uses as defined by the ALDP and in the circumstances described above the proposal to develop the land as a retail park is contrary to policies DS1 and TC14 of the ALDP.
- 8.14 Notwithstanding the fundamental conflict with policies DS1 and TC14 it is appropriate to consider the proposal in the context of those policies that deal specifically with retail development.
- 8.15 TAYplan Policy 5 states that in order to protect and enhance the vitality, viability and vibrancy of town centres, development proposals should focus land uses that generate significant footfall (including retail) in town centres defined in a network of centres ahead of other locations. It indicates other land uses including hospitality and catering should be encouraged in town centres. It indicates that planning decisions should be based on the following sequential priority: -
- 1. town, city and local centres (including Arbroath) should be the first choice for land uses that generate significant footfall; then;*
  - 2. on their edges; then;*
  - 3. in commercial centres (including Westway) for uses defined in Local Development Plan then;*
  - 4. at appropriate out of centre locations with good foot, cycle and passenger transport links.*
- The policy identifies that within sequential priority areas 1 and 2 the following functions are appropriate: -
- Retail (convenience, comparison and bulky goods), Commercial Leisure, Offices, Civic and community activity, Visitor uses (overnight and day trips), Hospitality and Catering, and Residential.*
- It indicates that in sequential priority areas 3 and 4 the following functions are appropriate: -
- Retail (bulky goods and convenience) and Commercial Leisure.*
- 8.16 Policies TC17 and TC19 of the ALDP similarly promote a town centres first approach towards new retail developments and require development proposals to follow 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.
- 8.17 The application site is not in a town centre and is not located on the edge of a town centre. The site is also not located within a commercial centre as defined by the ALDP.

- 8.18 The applicant has provided a Retail Statement in support of the application and it includes a sequential assessment that considers a number of sites in Arbroath (Car Park, Gravesend and Car Park, Spink Street) and Carnoustie (Car Park, High Street). That assessment concludes that it has not identified any sequentially preferable opportunities, mainly due to the lack of sites of a suitable size to accommodate the proposed development. The assessment has recently been updated to take account of a number of vacant retail units within Arbroath town centre.
- 8.19 There does not appear to be strong rationale for choosing car parks, or for the car parks chosen, as potential sites for the sequential assessment. There are other car parks within Arbroath town centre that have not been considered and other potential development sites in the vicinity of the town centre that might have some potential to accommodate some form of retail development.
- 8.20 Scottish Planning Policy (SPP) states that planning authorities, developers, owners and occupiers should be flexible and realistic in applying the sequential approach, to ensure that different uses are developed in the most appropriate locations. The applicant has indicated that the scale of the development proposed has been informed by retail analysis that has identified a level of quantitative and qualitative deficiency in existing retail provision. It is suggested that the scale of development proposed is appropriate to help address that deficiency and therefore a site of sufficient size to accommodate the development as proposed is required. For reasons set out below the level of that deficiency is considered to be overstated and the proposed POD unit is clearly of a size that could be accommodated within the town centre. However, it is accepted that there are no town centre, edge of centre or sites within a commercial centre that could accommodate the development as proposed.
- 8.21 Notwithstanding the conclusion of the sequential assessment, development plan policy indicates that in circumstances where there are no sequentially preferable sites, new retail development should be directed to out of centre locations with good foot, cycle and passenger transport links. This recognises that it is important for retail development to be located in locations where those that do not have access to a private car can access the provision and that sustainable transport choices can be made. In that respect it is necessary to consider whether this out of centre location has good foot, cycle and passenger transport links.
- 8.22 The applicant has submitted a Transport Assessment in support of the application and it considers the accessibility of the site. It makes reference to PAN75 and suggests that the maximum walking threshold of 1600m (20mins) is in line with observed behaviour. The applicant's Transport Assessment concludes that the site has good accessibility.
- 8.23 However, that conclusion must be considered in relation to the planning history of the site and conclusions reached previously by DPEA Reporters and Scottish Ministers. In considering proposals for food retail development on the neighbouring Westway retail park Reporters have indicated that: -
- 'there is virtually no walk-in residential catchment at this location which is peripheral to the town and not yet fully integrated into the urban fabric.'*
- 'the site is not easily accessible by modes of transport other than the car'*
- and,
- 'Westway's lack of accord with the plan is in large measure due to its location and poor accessibility by means other than the car, particularly in respect of walking and cycling links, and it is indifferently served by public transport.'*
- On the basis of those conclusions Reporters have considered that food retail development would be significantly contrary to development plan policy.
- 8.24 The application site is further away from neighbouring housing developments of any size than the Westway retail park; this proposal has virtually no walk-in residential catchment. Walking and cycling linkages in the area have not changed to any material extent in the intervening period of time. The site is a similar distance to bus routes and stops as the existing Westway retail park and the frequency of bus service in the area is similar to that when the Reporter determined that the area was *'indifferently served by public transport'*.

- 8.25 It has generally been accepted that Westway is an acceptable location for bulky goods retail development. However, it has also been reasonably well established that this is a location that relies on the private car; it is not a location that benefits from good foot, cycle and passenger transport links. Such linkages are particularly important for food retail stores to ensure that they are accessible by those that do not have access to a car (around 35% of the Arbroath population) and to allow others to make sustainable transport choices. In this case the application proposes retail development at an out of centre location that does not have good foot, cycle and passenger transport links. Consequentially the proposal is contrary to TAYplan Policy 5 and ALDP policy TC19 because this is an out of centre location that has poor accessibility by means other than private car. The proposal is also contrary to TAYplan Policy 2 and ALDP policies DS2 and DS3 by virtue of its poor accessibility by foot, cycle and passenger transport.
- 8.26 The applicant's retail statement also provides information in relation to retail deficiency and retail impact along with an assessment of the health of town centres within identified primary and secondary catchment areas.
- 8.27 This is supported by a survey undertaken on behalf of the applicant by NEMS Market Research (October 2018). The survey of 775 people indicated that 18.4% of those interviewed identified poor range and choice of multiple shops as a reason they disliked Arbroath. In addition to this 14.4% of those interviewed identified the choice of independent shops as a reason they disliked Arbroath. Some 22.6% of respondents indicated a desire to see an improved choice of multiple shops within the town with 19.2% indicating a desire to see an improved range of independent and specialist shops.
- 8.28 The applicant's retail statement indicates that convenience expenditure in what is identified as the primary catchment area equates to £95.6m and comparison expenditure £112.7m (£208.3m combined). In relation to the secondary catchment area, convenience expenditure is identified as £104.5m and £133.6m for comparison expenditure (£238.1m combined). It estimates that there is leakage of convenience goods expenditure equivalent to 17% or £16.1m from the catchment. For comparison goods, the leakage is indicated to be 56% or £67.2m of total expenditure. In relation to the secondary market convenience leakage is indicated to be 69% (or £72.5m) of available expenditure and for available comparison expenditure 54% or (£61.3m).
- 8.29 The retail statement concludes that the proposals would help meet a known deficiency by retaining more expenditure within the local catchment (where at present there is significant leakage of such expenditure) and due to its location, would help encourage more sustainable shopping habits. It suggests that this might also benefit Arbroath town centre by encouraging the prospects for further local linked trips. It indicates that the proposals would turnover £13.7m for convenience goods and £11.3m for comparison goods from the primary catchment, which is lower than the deficiency that currently exists, and in manner that would not result in significantly adverse impacts. The impact on Arbroath town centre overall, would be 5.9%. It suggests that all centres are generally performing modestly against the standard vitality and viability indicators and can accommodate the modest trade diversions proposed.
- 8.30 The planning service has engaged an independent retail consultant to review the retail statement. That consultant has raised concern regarding a number of matters and those have been subject of dialogue with the applicant's retail consultant. This has allowed the provision of further information and sensitivity testing in relation to a number of assumptions. Notwithstanding that dialogue the council's consultant remains concerned regarding a number of assumptions by the applicant's consultant. In particular there is concern regarding the extent of the primary catchment and its inclusion of Carnoustie postcodes, and regarding the extent of 'clawback' of expenditure leakage from Dundee that is estimated. The inclusion of the Carnoustie postcodes is not consistent with previous council decisions and conclusions of DPEA Reporters.
- 8.31 The council's consultant has indicated that the current 17% level of convenience expenditure from the catchment is not overly remarkable given the extensive nature of commuting between the catchment and Dundee. The consultant has also questioned the reasonableness of the applicant's assumptions regarding reduction in leakage/ clawback of comparison goods expenditure from outwith the primary catchment area. Accordingly, while there may be some quantitative and qualitative deficiency in terms of retail offer within the Arbroath catchment area, it is likely that this is overstated in the applicant's submission.



- 8.32 The council's consultant has indicated that Arbroath town centre appears vulnerable to competition from out of centre retail. The consultant notes that figures provided by the applicant indicate that while the Lidl store at Gravesend appears to be achieving higher than average turnover, none of the other food stores within Arbroath town centre are achieving anywhere near their expected turnover levels. It is also noted that in relation to comparison trading patterns and market shares, the town centre is faring less well than the convenience goods sector, with the town centre achieving just 75% of its expected average turnover. Analysis provided by the applicant indicates that retail impact on Arbroath town centre could be around 11% overall representing £5.93m of expenditure diverted from town centre shops. The council's retail consultant's three reports on the proposal can be viewed on the [Public Access](#) system but in conclusion state that: -

*Assuming the exclusion of the additional Carnoustie postcode sector, and the same level of clawback to the proposed development (c.£9m), this would result in around £24m or just 30% of available expenditure in the catchment area being drawn to the significant comparison retail attractions offered in Dundee and elsewhere outside the catchment area, reinforcing the doubts over how realistic this conclusion can be. In this scenario retail impact remains the same, at around 11% overall on Arbroath town centre, however assuming less reliance on clawback would increase this. For example, dropping the reliance on clawback from 60% of the proposal's turnover to 50% would increase the impact on the town centre overall from 11% to around 14%, representing a reduction of comparison turnover of around £6m. The resultant comparison goods turnover of the town centre in this scenario would reduce further from 77% of average turnover to 67% in 2021.*

*Taking account of the sensitivity testing provided, there remain concerns regarding the overall impact of the proposed development on Arbroath town centre. The impacts in the sensitivity submissions continue to understate the likely impact, principally as a result of the reliance on recovery of expenditure which is considered to be 'leaking' to Dundee and other centres. The performance of the town centre, particularly in terms of comparison turnover, is relatively poor based on the average turnover comparisons and other indicators provided by the Applicant, and the proposed development will weaken the town centre performance further. The extent of this weakening, based on the evidence provided, would be sufficient to support the conclusion that the proposed development is contrary to LDP Policy TC19, as informed by TAYplan Policy 5 and SPP.*

- 8.33 It is unlikely that other town centres would suffer significant retail impact as a consequence of the development but in circumstances where Arbroath's town centre is vulnerable to retail impact, the predicted level of impact is considered significant. The Arbroath Development Strategy as detailed in the ALDP encourages new developments and investment where they would strengthen the role of the town centre and enhance its vibrancy, vitality and viability whilst improving the quality of the physical environment. Diverting expenditure, potentially in excess of £5m - £6m, from a vulnerable town centre is unlikely to strengthen its role. There is legitimate concern that the applicant's assumptions in relation to potential clawback of expenditure leakage from the catchment are overly ambitious and in such circumstances retail impact on the town centre could be increased. On the basis of available information it is considered likely that this proposal would have an adverse impact on the vibrancy, vitality and viability of the town centre. **Accordingly the proposal is contrary to ALDP policies TC17 and TC19.**
- 8.34 The general layout of the site and design of the proposed buildings is acceptable having regard to the nature of the area. Detailed matters, including issues related to landscaping could be addressed by planning condition. The proposal would be unlikely to give rise to significant issues in terms of the amenity of the surrounding area or its occupants but a noise impact assessment has identified that a 2.5m high acoustic fence would be required along a significant portion of the southwest boundary of the site to reduce noise impact on the adjacent caravan park. A fence of that height would not be a particularly attractive boundary to the neighbouring caravan park but an acceptable design solution could likely be secured by planning condition. The Environmental Health Service has also identified that further conditions could be attached to minimise amenity impacts. The Roads Service has considered potential impact on the local road network and has indicated no objection subject to several matters being addressed through planning conditions. The proposal does not give rise to any significant issues in terms of drainage or flood risk that could not be addressed by planning condition.

- 8.35 The proposal does not give rise to significant issues in terms of other development plan policy that could not be addressed by planning conditions. However, for the reasons identified above, the proposal is significantly contrary to the development plan.
- 8.36 In terms of material considerations it is relevant to have regard to Scottish Planning Policy (SPP), the planning history of the site, representations submitted both in objection to and in support of the application that raise relevant planning issues, and information submitted by the applicant.
- 8.37 SPP introduces a presumption in favour of development that contributes to sustainable development but indicates that this does not change the statutory status of the development plan.
- 8.38 In this case the development plan is up-to-date and, as discussed above, this proposal is contrary to the development plan. The application site is in an out-of-centre a location where there would be high reliance on private cars for access. It is not a location that benefits from good links via walking and cycling networks to serve the nature of development proposed and it is *indifferently* served by public transport. There may be capacity for retail development in Arbroath but SPP indicates that such development should be directed to locations that provide good accessibility by a range of sustainable transport modes in order to reduce reliance on the private car and to ensure accessibility by those that do not have access to a car.
- 8.39 Issues regarding retail impact, the ability of the development to provide additional competition and choice, and the tackling of retail deficiencies have been addressed above. The development would be likely to stem some outflow of expenditure from the Arbroath catchment area and that could help reduce travel to other areas, including Dundee. While that would be beneficial it would not compensate for the otherwise poor accessibility of this site by sustainable transport modes. The ongoing review of the local development plan would provide the appropriate forum to consider the need to address any deficiency in retail provision and would allow for consideration of a full range of sites that could provide a good level of accessibility to those that do not have access to a private car or who wish to choose sustainable means of transport.
- 8.40 The applicant has suggested a number of planning conditions that could be attached if planning permission was granted in order to limit impact of the development on the town centre. Those proposed planning conditions have been subject of some discussion and it is likely that they would go some way towards reducing impacts on the town centre. However, the extent to which they would reduce retail impact has not been demonstrated, and they would not address the fundamental issues associated with this proposal that relate to the general incompatibility of the proposal with the development plan.
- 8.41 The proposal may bring new retailers to the town and a number have expressed interest in the development. However, the planning system cannot readily control the identity of retailers and, while the applicant may use best endeavours, there can be no guarantee that existing retailers within the town (including the town centre) would not relocate to this site. Indeed information provided by the applicant suggests that the small pod unit was designed to accommodate Greggs, an existing town centre operator.
- 8.42 Third parties have raised concern that the proposal is contrary to ALDP policy and have highlighted that it would result in the loss of employment land. Those matters are discussed above and for the reasons identified the proposal is considered contrary to development plan policy, in part as it would result in the loss of employment land. There may be limited evidence of demand for employment land but that may change over the period of the ALDP and it is considered important to retain a site that is particularly well located in relation to the A92 and that is the only serviced employment site in excess of 2ha in area within the town. Safeguarding land of this nature for employment use is consistent with the SPP.
- 8.43 The council's Roads Service has reviewed information submitted by the applicant in relation to road traffic and pedestrian safety and has considered the representations on these matters made by third parties. The applicant has amended the proposed access arrangements in response to concerns raised through the application process. The Roads Service has indicated that the revised access and egress arrangements are considered acceptable.

- 8.44 Third parties have raised concern regarding the need for good connectivity between the proposed retail development and the existing Westway retail park. In that respect it is also relevant to note that, at its meeting on 9 October 2018 the Development Standards Committee indicated that provision should be made for connection between the proposed and existing retail site for pedestrians, cyclists and vehicles. The applicant has indicated that direct connection between the sites is not possible due to land ownership issues and has also identified technical constraints associated with the formation of vehicular route connecting the two sites. However, a footpath connection would be provided by the A92 (indicatively through the Asda petrol station forecourt) and provision would be made for a pedestrian and cyclist connection within the site although delivery of that would be dependent upon the actions/agreement of neighbouring land owners which has not been secured. The Roads Service has acknowledged that there would be technical issues associated with the provision of a vehicular route between the two sites but has indicated that such issues could likely be overcome if relevant land owners worked together to deliver a solution. As identified by the Development Standards Committee it would be beneficial to avoid vehicular traffic wishing to travel between the two sites being forced to enter the public road network. It would also be beneficial to have a direct, formal and attractive pedestrian/cyclist linkage between the two sites in the interests of promoting sustainable means of transport and allowing easy access between the sites for those with restricted mobility.
- 8.45 The proposal would create new employment opportunities and the applicant has submitted information that suggests the proposal would generate 237 full time equivalent (FTE) and 24 indirect jobs, with 14 (FTE) jobs anticipated through construction. The applicants supporting information suggests that 157 of those jobs would be created from the food retail development. However, it is relevant to note that named operators have been identified for the 2 large food retail units proposed within the development. In that respect Iceland (one of the named operators) has indicated that it would create 25 jobs. Aldi, which is the other named operator, recently submitted a planning application for a new retail unit of similar size at a site in Dundee. The information submitted by Aldi in relation to that application suggested that store would create 35 permanent new jobs. It is likely that a store of the similar size operated by the same retailer would generate a similar number of jobs at this location. Accordingly, it is likely that the number of jobs that would be generated by the food retail element of the proposal would be significantly less than the 157 indicated by the applicant and similarly the total number of jobs would also be reduced. While the proposal would generate new jobs that has to be balanced against any job losses that might occur as a consequence of adverse impact on existing businesses. The applicant has provided no assessment in relation to this matter. The applicant has also not provided any assessment of the job opportunities that might arise if the application site was developed for the employment use for which it is safeguarded. The applicant has used standard multipliers to calculate potential jobs associated with the proposed retail floorspace. If the same source data is used this suggests that employment uses on the site (assuming similar floor area) could generate in the region of 95 - 400 jobs depending upon the nature of the employment use.
- 8.46 The applicant has also provided information that seeks to demonstrate the economic benefit that would be derived from the development through the Gross Value Added (GVA). Based upon the estimated 237 FTE jobs (which as discussed above is considered unlikely based on retailer identity) the applicant has estimated that the development, once built, would provide a GVA of £5.93m (2016 prices). The applicant's information also indicates that the development would have a construction value in the region of £11.39m and construction activity would generate a further GVA of £7.96m to the economy. Again, the applicant has not provided information to demonstrate the GVA that would be associated with employment development for which the site is safeguarded. However, if the same source data is used, and assuming a general employment use on the site, with the same estimated number of FTE jobs as the proposed retail development (representing an approximate mid-range figure for employment uses), a GVA in the region of £8.62m (2016 prices) could be provided from employment related development on the site.
- 8.47 In conclusion this proposal is significantly contrary to the council's policies as set out in the development plan. The application site is identified and safeguarded for business, general industry and storage or distribution uses. It is the only available employment site in excess of 2ha in Arbroath and is in a serviced location, adjacent to the strategic road network. Interest in developing the site for employment use may not have emerged in the relatively short period of time that it has been marketed. However, there are no other sites within the town of this size and with the same attributes that could accommodate employment uses. The council's policies seek to ensure that there is sufficient and suitable land available over the 10-year

local development plan period for new businesses to locate in the area and/or for existing businesses to relocate and expand. Allowing this proposal would compromise employment land supply and could potentially make it more difficult for businesses to invest or grow.

- 8.48 While improvement of Arbroath's retail offer is desirable and justifiable, national and local policy requires any new retail provision to be directed to locations that are accessible by those that do not have access to a car and by those who wish to make sustainable transport choices. It has been well-established that the application site is in a general location where there is *poor accessibility by means other than private car, particularly in respect of walking and cycling links, and it is indifferently served by public transport*. Many people may choose to do their shopping by car but it is important to recognise that there are also many who do not have access to a car, or who wish to choose more sustainable means of transport to undertake shopping trips. Development plan policy seeks to ensure that new retail development is directed to the most sustainable locations and this application site is not compatible with that policy requirement. The ongoing review of the local development plan provides the appropriate forum to consider the need to address any deficiency in retail provision and for consideration of a full range of sites that could provide a good level of accessibility to those that do not have access to a private car or who wish to choose sustainable means of transport.
- 8.49 Arbroath town centre, like many other town centres across the country, is vulnerable to impact from new out of centre retail development. There is conflicting evidence regarding the potential impact of the proposed development on the vitality and viability of Arbroath town centre, but an independent retail consultant appointed on behalf of the council has concluded that the likely level of retail impact would adversely impact the town centre. While planning conditions that control retail format could help reduce retail impact, the effect of any such conditions has not been quantified and they would not address the fundamental issues identified above regarding the general unsuitability of the location for this type of development. The council's development strategy for Arbroath seeks to encourage new development and investment where it will strengthen the role of the town centre and enhance its vibrancy, vitality and viability. That is consistent with national and regional policy objectives. Available evidence indicates that this proposal would not be consistent with development strategy and would not be consistent with national and local policies that seek to minimise impact of new retail development on town centres.
- 8.50 The information submitted in support of the application, the letters that offer support and objection to the proposal and all other material considerations have been taken into account in the preparation of this report. However, this proposal is not consistent with the strategy of the development plan which promotes sustainable development and a network of centres and is significantly contrary to the development plan. There are no material considerations that justify approval of this application contrary to the development plan.

## **9. OTHER MATTERS**

### **HUMAN RIGHTS IMPLICATIONS**

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

### **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 refused for the following reasons:

1. The proposal is contrary to policy DS1 of the Angus Local Development Plan as the land is safeguarded for employment uses, the proposal would not support delivery of the development strategy, and it is not in accordance with other policies of that Plan, specifically policies DS2, DS3, TC14, TC17 and TC19.
2. The proposal is contrary to policy TC14 of the Angus Local Development Plan as it would result in the loss of land that it is important to retain for employment use by virtue of its size, serviced location and proximity to the strategic road network. It is also contrary to policy TC14 as the proposal is contrary to policy TC19.
3. The proposal is contrary to TAYplan Policy 5 and policy TC19 of the Angus Local Development Plan because this is an out of centre location that has poor accessibility by means other than private car. The proposal is also contrary to TAYplan Policy 2 and policies DS2 and DS3 of the Angus Local Development Plan by virtue of its poor accessibility by foot, cycle and passenger transport.
4. The proposal is contrary to policies TC17 and TC19 of the Angus Local Development Plan as it would have an adverse impact on the vibrancy, vitality and viability of the town centre. It is also inconsistent with the Arbroath development strategy as identified in the Angus Local Development Plan as it would not strengthen the role of the town centre and enhance its vibrancy, vitality and viability whilst improving the quality of the physical environment.

**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: 7 OCTOBER 2019**

APPENDIX 1: LOCATION PLAN  
APPENDIX 2: SUMMARY OF APPLICANTS SUPPORTING INFORMATION  
APPENDIX 3: DEVELOPMENT PLAN POLICIES