

Perth and Kinross Council
Development Management Committee – 22 May 2013
Report of Handling by Development Quality Manager

Modification of Planning Obligation to allow the sale of a revised range of goods and amendment to the minimum unit size at St Catherine's Retail Park, Perth PH1 5XA

Ref: No: 13/00741/MPO
Ward No: 11 – Perth City North

Summary

This report recommends approval of the modification of existing Planning Obligations to permit a revised range of goods to be sold and the reduction of the minimum retail unit size at St Catherine's Retail Park South.

BACKGROUND AND DESCRIPTION

- 1 This application relates to a large area of the St Catherine's Retail Park complex, on the edge of Perth City Centre. The area of the retail park affected by this application is located to the south of the roundabout on Long Causeway but does not include Morrison's Supermarket or the petrol filling station. The retail units to the north of Long Causeway do not form part of this request to modify the terms of the existing legal agreement.
- 2 The retail park was opened in the late 1980s and comprises a large number of retail units with associated customer car parking and service yards. The design of the units is typical of that era but the appearance of the retail park has since become out-dated.
- 3 A scheme to regenerate this area of St Catherine's Retail Park was recently granted planning permission under delegated powers (Ref: 12/01239/FLL). Those proposals involved the extensive refurbishment of the existing front elevations of the retail units. Also included were extensions to units 4 and 5, the creation of a new retail unit and a new café unit, the sub-division of unit 4 and associated car park reconfiguration increasing pedestrian and bicycle facilities.
- 4 There are a number of historic planning agreements relative to this site with some also being applicable to the wider St Catherine's Retail Park site and which date back to the time of the original planning permission being granted. The applicant is currently seeking a modification to the existing planning obligations (Section 75 Agreement) to revise the types of goods able to be sold to be of a similar nature to those now allowed in St Catherine's Retail Park North (but excluding food retail), to allow the reduction in the minimum size of unit from 500 sq.m to 464sq.m, with one unit being permitted to be between 325sq.m and 464sq.m and up to two units being used for café or free standing food units each with a gross internal area of less than 325sq.m.

- 5 It must be highlighted at this stage that this is not a planning application. This application is solely seeking permission to amend the terms of the existing Section 75 legal agreement which controls unit sizes and the type of goods that can be sold in the southern part of the retail park.

NATIONAL POLICY AND GUIDANCE

Scottish Planning Policy (February 2010)

- 6 This SPP is a statement of Scottish Government policy on land use planning and contains:
- the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management and,
 - the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are:

- Paragraphs 45 – 51: Economic development.
- Paragraphs 52 – 65: Town centres and retailing.

DEVELOPMENT PLAN

- 7 The Development Plan for the area comprises the Approved TAYplan 2012 and the Adopted Perth Area Local Plan 1995. The principal relevant policies are in summary: -

TAYPlan 2012

Policy 7: Town Centres

- 8 This policy outlines that strategies, plans, programmes and development proposals should focus comparison retail development within the town and commercial centres specified in the retail hierarchy (table 2), with the largest scale of activity in the largest town centres, to protect and enhance their vitality and viability.

Perth Area Local Plan 1995

- 9 Under the Local Plan the site lies within the settlement boundary of Perth and within an area identified as a retail park.

General Shopping: Policy 46

- 10 This policy identifies both major retail areas and neighbourhood shopping centres. Retail development of more than 1000m² gross outwith these areas will not be in accordance with the Local Plan. An Article 4 Direction relating to retail use applies in Dunkeld Road and planning permission is required for a change of use from car showroom to shop in this area.

Perth and Kinross Council Local Development Plan – Proposed Plan (January 2012)

- 11 On 30 January 2012 the Proposed Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. It has recently undergone a period of representation; the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application, reflecting a more up to date view of the Council.

The principal relevant policies are in summary:

Policy RC3: Commercial Centres

- 12 Proposals for retail units will be promoted in the commercial centres shown on the proposals map. However, certain uses will be restricted in some of the commercial centres based on their planning consents and legal agreements for planning obligations. The Council supports improvements to the commercial centres including increased floor space provided parking provision and landscaping is not compromised.

Policy RC4: Retail and Commercial Leisure Proposals

- 13 Retail and commercial leisure facilities will be expected to locate in town and neighbourhood centres or other commercial centres. Proposals for any retail and leisure development of 1,500 square metres or more gross floor space outwith a defined town centre boundary, and not in accordance with the development plan, will require a transport, retail or leisure impact assessment. Any detrimental effects identified in such an assessment will require mitigation. For smaller developments, the requirement for an impact assessment will be at the discretion of the Council.
- 14 Proposals on edge of centre or out of centre locations will only be acceptable where:
- (a) It can be demonstrated that a proposal helps meet quantitative and qualitative deficiencies in existing provision.
 - (b) It is supported by a favourable sequential assessment.
 - (c) It is of an appropriate scale.
 - (d) It provides improved distribution and accessibility of shopping provision.

- (e) It provides for accessibility to public transport and non car modes of transport.
- (f) Any detrimental effects identified in the transport assessment are mitigated.
- (g) It has been demonstrated that there will be no significant impact (individual or cumulative) on any of the centres within the network of centres.

SITE HISTORY

- 15 A scheme to regenerate this area of the St Catherine’s Retail Park was recently granted planning permission under delegated powers (Ref: 12/01239/FLL). The proposals involve the extensive refurbishment of the existing front elevations of the retail units, the extension to a number of units, changes to the sub-division and alterations/improvements to the car park and pedestrian layout within the retail park.
- 16 A recent application for the modification of the existing Planning Obligation was submitted for the same site within St Catherine’s Retail Park (Planning Ref: 12/01259/MPO). This application was withdrawn by the applicant in order that the proposed wording be revised after negotiations.

CONSULTATIONS

- 17 No external consultations have been undertaken though two parties were notified of the application as being Interested Parties.

REPRESENTATIONS

- 18 One letter of representations has been received in respect of this application which raises concerns regarding the potential impact of the proposed revisions on the city centre core retail area.

ADDITIONAL STATEMENTS

19	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	Yes
	Report on Impact or Potential Impact:	Yes

APPRAISAL

Legislation

- 20 Section 75A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) sets out that, where a person against whom a planning obligation is

enforceable wishes to modify or discharge the obligation, they have to apply (under section 75A(2)) to the planning authority seeking their agreement for the modification or discharge.

- 21 In determining an application submitted under Section 75A(2) the planning authority may, depending on whether the application is for the modification or discharge of the obligation, determine that the obligation be discharged or that the proposed modification to the obligation be made. The authority may also determine that the obligation should continue in its current form. The legislation does not permit the planning authority to determine that the obligation should be subject to any modification other than the modification, or modifications, as set out in the application.

Policy

- 22 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 are still applicable to this application and require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The adopted Development Plans that are applicable to this area are the TAYplan 2012 and the Perth Area Local Plan 1995.
- 23 The determining issues in this case are whether: - the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy.
- 24 In terms of the TAYplan, Policy 7 'Town Centres' is directly applicable as are Policy 46 'General Shopping' of the adopted Local Plan and Policies RC3 'Commercial Centres' and RC4 'Retail and Commercial Proposal' of the proposed Local Development Plan.
- 25 With regard to the relationship with the core retail area of the city centre, due to its edge of centre location, it is considered that St Catherine's Retail Park plays a significant role in the vitality and viability of the city centre. It is accepted that the introduction of additional retail floorspace on sites that are outwith the city centre could potentially directly impact on the retail operation of the core retail area. However St Catherine's Retail Park is considered to be an edge of centre site due to close proximity to the city centre. Furthermore, not only does the adopted local plan seek to direct all retail developments of more than 1000 m² into major retail areas (Policy 46), but the Proposed Local Development Plan also seeks that proposals for retail units should be promoted within the commercial centres (Policy RC3), such as St Catherine's Retail Park. The creation of additional retail floorspace is not under consideration as part of this application but was considered under the associated planning application which was subsequently granted. In respect of the policy background, there is general support for the principle, which is clearly evident from the recent grant of the associated planning permission.

Draft Head of Terms

- 26 The numerous legal obligations which relate to the current application site were originally required in order to restrict the types of goods available for sale in

addition to the minimum and maximum sizes of units used for specific purposes. The current modification request seeks to vary those elements to a degree.

Range of Goods – Restrictions

- 27 Proposed Clause 4.1: 2,650 square metres for adult clothing and footwear will equate to 39% of proposed total floorspace of the retail park. This is reasonably similar to St Catherine’s Retail Park North and is therefore acceptable.
- 28 Proposed Clauses 4.2 and 4.3: tidies up the previous legal agreements range of uses by grouping them together under the heading “Permitted Clothing and Footwear”. This is considered acceptable.

Units Sizes

- 29 Proposed Clauses 5.1 and 5.2: A minimum unit size of 464 square metres is acceptable and 1 unit between 325 square metres and 464 square metres is also acceptable. Up to two units less than 325 square metres that can be used for food and drink on the premises or in takeaway form is also considered acceptable and should help improve the attractiveness of the retail park.

Impact on City Centre

- 30 A supporting retail statement was submitted in respect of the recent application for planning permission for environmental improvements (12/01239/FLL; approved 30.10.2012) and covered the issues of additional floorspace and modification of the planning obligation. It was considered at that time to be acceptable. It is unnecessary to require the same information to be submitted again as the relevant aspects remain the same.
- 31 The Council preference remains for additional retail investment to be directed to the centre and has set out this position in relation to the planning frameworks contained in the current and Proposed LDP and desire for investment in retail and other uses through the Perth City Plan. The Council's commitment to this course is evident as it is actively working with the owners of the St John’s Shopping Centre to assist their current investment in the Centre.
- 32 Changes to the range of goods already granted planning permission and previous unrestricted retail permissions are relevant in considering the current proposal and the arguments in relation to potential loss of trade. To date these have not resulted in movement from the central retail core, particularly in relation to smaller units as suggested in the representation received. The argument that a framework agreed for one part of the retail park should not hold for the remainder given the similarity and proximity of the retail operations is unrealistic and not supportable.
- 33 The applicant is proposing floorspace for clothing and footwear that is unlikely to be met by any existing city centre units because of the lack of large floorspace units. They are aiming to meet an identified demand that the city

centre appears unable to provide and to have it in an edge of centre location helps meet the sequential approach and should lead to an increase in linked trips.

- 34 The proposal does not remove the need to continue with city centre improvements and promote it as the first destination for retail, leisure and commercial uses. If a city centre cannot meet the demand then edge of centre locations are next in terms of the sequential process. It is considered that increases in linked trips will lead to greater footfall numbers in the city centre and this is a positive impact.

LEGAL AGREEMENTS REQUIRED

- 35 This application relates to the modification of the existing Section 75 Agreement that controls the unit sizes and the range of goods that can be sold within the Retail Park. If this request to modify the existing Section 75 is agreed then the existing legal obligation will need to be amended to accommodate the modification.

DIRECTION BY SCOTTISH MINISTERS

- 36 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 37 On the basis of the above the proposal does not undermine TAYplan's retail hierarchy, the 2011 Retail Review or indeed the Proposed LDP or current Local Plan. Added investment, increased range of goods, reduced leakage, more linked trips and higher footfall numbers will provide an improvement to the vitality and viability of the retail park and the city centre which includes St Johns Shopping Centre. This proposal along with the approval for the north side of the retail park and continued improvements in the city centre will help reduce some of the current leakage to Dundee and Stirling.
- 38 It is therefore concluded that the proposed modification to allow the variation of types of goods for sale and the revisions to the units sizes within St Catherine's Retail Park (south) will assist in the much needed regeneration of the retail park and improve the future economic competitiveness of Perth. On that basis the current request to vary the terms of the legal agreement should be approved.

RECOMMENDATION

- A** Approve the proposed Modification of existing Planning Obligation to allow the sale of a revised range of goods and amendments to the minimum unit size.

B JUSTIFICATION

The requested modification is considered to be acceptable in terms of its potential impact on St Catherine’s Retail Park and the core retail area of Perth city centre.

C PROCEDURAL NOTES

None.

D INFORMATIVES

None.

Background Papers: None

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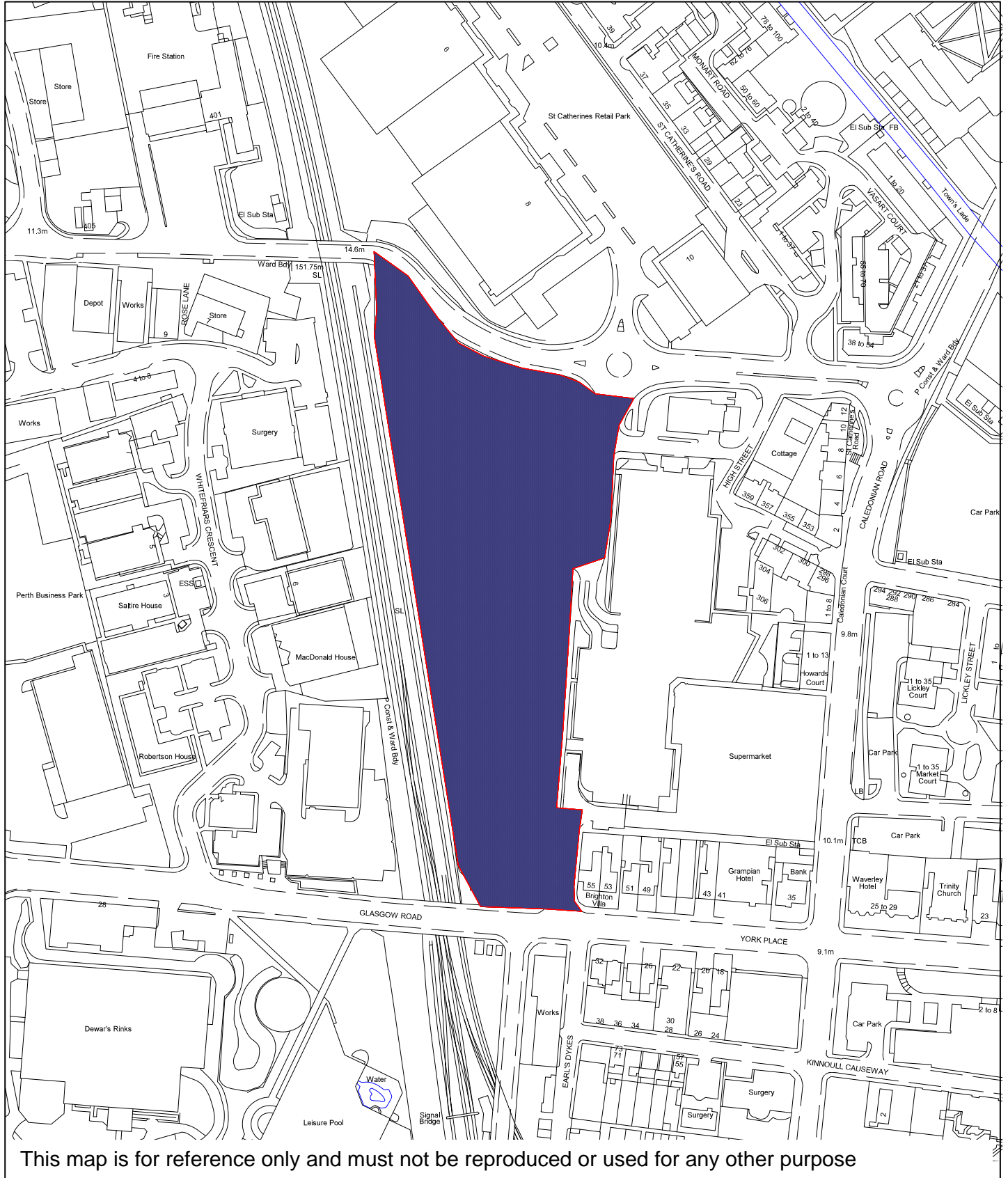
Date: 8 May 2013

Nick Brian
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