

Perth and Kinross Council  
Development Management Committee – 13 August 2014  
Report of Handling by Development Quality Manager

**Modification of planning obligation to allow 145sqm of Unit 10 to be used for the sale of convenience goods including food at St Catherine's Retail Park, Perth**

Ref: No: 14/01216/MPO  
Ward No: 11 – Perth City North

**Summary**

This report recommends approval of the modification of an existing Planning Obligation to permit 145sqm of Unit 10 of St Catherine's Retail Park to be used for the sale of convenience goods, including food.

**BACKGROUND AND DESCRIPTION**

- 1 This application relates to Unit 10 of St Catherine's Retail Park (North), a 1980s retail park comprising of a number large retail units ranging from 929 m<sup>2</sup> to 3400 m<sup>2</sup> 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 somewhat dated and the movement through the car park for both traffic and pedestrians is particularly poor. Unit 10 is located on the eastern side of the complex and is presently occupied by Currys.
- 2 Detailed planning permission (11/00092/FLM) was granted by the Council in 2011 for a scheme to regenerate this area of the retail park. The proposals involve the extensive refurbishment of the existing front elevations of the retail units, significant alterations to the car park and road layout and proposals for the subdivision of some of the units. The applicant has recently commenced the refurbishment of the front elevations of the retail units.
- 3 There are a number of historic planning obligations relative to this site with some also being applicable to the wider St Catherine's Retail Park site which date back to the time of the original planning permission being granted. In 2011 the applicant was granted consent to modify the terms of the existing Planning Obligation to allow for one lettable unit of up to 3,350sqm (gross retail floor space) to be used for the sale of food (Ref: 11/01971/MPO). The applicant was then granted consent in 2013 to again modify the term of the terms of the existing Planning Obligation to allow for up to 426sqm of the gross retail space of Unit 4 to be used for convenience goods including food (13/01192/MPO).
- 4 This application is seeking consent for a further modification of the existing planning obligation to allow for up to 145sqm of the gross retail space of Unit 10 to be used for convenience goods including food.
- 5 It must be highlighted that this is not a planning application, but an application seeking permission to amend the terms of the existing planning obligation which controls unit sizes and the type of goods that can be sold in the northern part of the retail park.

## **NATIONAL POLICY AND GUIDANCE**

### **Scottish Planning Policy (June 2014)**

- 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.
- 7 Of relevance to this application are:
- Paragraphs 58 – 73 'Promoting Town Centres'

## **DEVELOPMENT PLAN**

- 8 The Development Plan for the area consists of the Approved Tayplan Strategic Development Plan 2012 and the Adopted Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012**

The relevant policy is:-

#### **Policy 7 Town Centres**

- 9 Identifies a focus for comparison retail development within town and commercial centres.

### **Perth and Kinross Local Development Plan 2014 – Adopted February 2014**

- 10 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
11. The principal relevant policies are in summary:

#### **Policy RC3: Commercial Centres**

- 12 Proposals for retail units will be promoted in commercial centres depending on restrictions placed on developments through planning permissions and legal agreements. Improvements, including increasing floorspace will be supported provided parking provision and landscaping is not compromised.

## **Policy RC4: Retail and Commercial Leisure Proposals**

- 13 The location of new retail and commercial leisure facilities should follow a sequential approach. Proposals of more than 1,500 sqm (or smaller at the discretion of the Council) outwith a defined town centre and not in accordance with the development plan will require a transport, retail or leisure impact assessment. Proposals that are on the edge of a centre, out of centre or in other commercial centres will only be acceptable where they satisfy the criteria set out.

### **SITE HISTORY**

- 14 Detailed planning permission (11/00092/FLM) was granted by the Council in 2011 for a scheme to regenerate this area of the retail park. The proposals involve the extensive refurbishment of the existing front elevations of the retail units, significant alterations to the car park and road layout within the retail park and proposals for the subdivision of some of the units.
- 15 In 2011 the applicant was granted consent to modify the terms of the existing Planning Obligation to allow for one lettable unit of up to 3,350sqm (gross retail floor space) to be used for the sale of food (Ref: 11/01971/MPO).
- 16 The applicant was then granted consent in 2013 to again modify the term of the terms of the existing Planning Obligation to allow for up to 426sqm of the gross retail space of Unit 4 to be used for convenience goods including food (13/01192/MPO).

### **CONSULTATIONS**

- 17 No external consultations have been undertaken.

### **REPRESENTATIONS**

- 18 No representations have been lodged in respect of the proposals.

### **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	Not required
	Report on Impact or Potential Impact:	Not required

### **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 Although this application is not an application for planning permission, Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 are still applicable to this application insofar as this decision must be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for this area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014. In terms of the TAYplan, Policy 7 'Town Centres' is directly applicable, as are Policies RC3 'Commercial Centres' and RC4 'Retail and Commercial Proposal' of the LDP 2014.
- 23 To this end, the key determining issue for this application is ultimately whether or not the change in the terms of the planning obligation will result in an acceptable land use and whether or not it will adversely affect the vitality and viability of Perth City Centre. For reasons stated elsewhere in this report, I consider the proposal acceptable on both counts.

### **Draft Head of Terms**

- 24 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 the terms of the existing obligation to permit up to 145sqm of the gross retail space of Unit 10 to be used for convenience goods including food.

### **Impact on City Centre**

- 25 The Council's preference for the location of new retail investment in Perth is that it should be directed to the city centre. This position is fundamentally ingrained into the Council's planning framework contained in the recently adopted LDP and the Perth City Plan. The Council's commitment to this approach is evident as it is actively working with the owners of the St John's Shopping Centre to assist their current investment projects in St Johns.
- 26 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 Perth city centre. It is accepted that the introduction of an additional retail floor space on sites that are outwith the city centre could potentially directly impact on the retail operation of the core retail area but the proposal represents an additional type of floor space. However St Catherine's Retail Park is considered to be an edge of centre site due to its close proximity to the city centre. Furthermore the 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.

- 27 The applicant is pursuing a retail operator for Unit 10 whose primary stock is based on non-food goods, which would be entirely consistent with the terms of the extant planning obligations attached to the site. However, it is envisaged that the potential operator will also seek to stock a range of convenience goods (including food and drink in tins, bottles, cans and packets) and it is expected at the floorspace accommodating this element would not exceed 145sqm, which would be approx 15% of the total unit.
- 28 In addition to the above, the existing agreement allows for food to be traded within existing units, providing it is ancillary to the main use. Whilst there is no industry standard as to what constitutes an ancillary use, it is generally considered that 30% (of the main use) is at the upper limit of what is generally considered to be within the realms of ancillary. To this end, a proposed area of 145sqm (approx 15%) of the total floor space of Unit 10 is considered acceptable and in line with the original aims of the planning obligation which sought to ensure that convenience goods remained an ancillary use within the individual units.

### **Retail Capacity**

- 29 Initially some concerns were expressed regarding the lack of convenience capacity to support a request for further floor space to trade convenience goods. However the amount of capacity available for convenience retailing has now changed following the recent confirmation that Sainsburys are no longer intending to develop a food store at the former Auction Mart site. It is therefore now considered that capacity is no longer an issue.

### **LEGAL AGREEMENTS REQUIRED**

- 30 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**

- 31 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, 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

- 32 On the basis of the above, the proposal does not undermine the TAYplan's retail hierarchy or the current Local Development Plan. As a result of the proposed modification, the resultant end user will be one which is considered suitable in both the city centre and commercial centre locations.
- 33 It is therefore concluded that the proposed modification to allow the variation of types of goods for sale 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.

### **B JUSTIFICATION**

The requested modification is considered to be in accordance with the Development Plan.

### **C PROCEDURAL NOTES**

None

### **D INFORMATIVES**

None

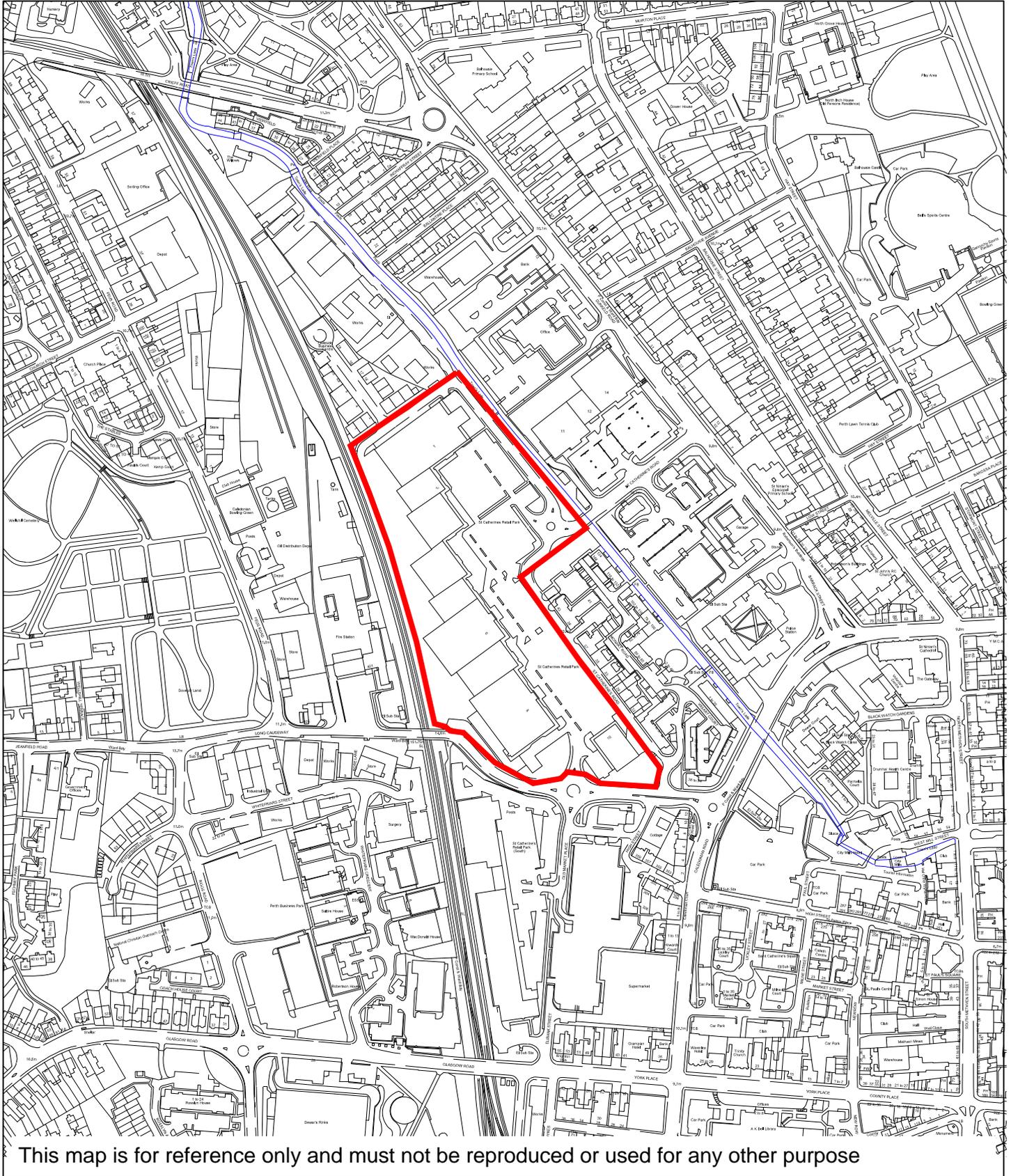
Background Papers: None  
Contact Officer: David Niven – Ext (4)75345  
Date: 23 July 2014

**Nick Brian**  
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