

Perth and Kinross Council
Planning and Placemaking Committee – 1 June 2022
Report of Handling by Head of Planning & Development
(Report No. 22/113)

PROPOSAL: Erection of retail unit (Class 1), formation of access, car parking, engineering works, landscaping and associated works

LOCATION: Land west of 4 Pickembere, Pitheavlis, Perth

Ref. No: [21/00248/FLL](#)

Ward No: P10- Perth City South

Summary

This report recommends approval of the application, subject to receipt of or other means of securing identified developer contributions and the revocation of the aspect of planning permission 99/00818/FUL to remove the ability to use that premises for Class 1 retail use at the applicants existing Glasgow Road store. Although the development is not considered to fully comply with the relevant provisions of the Development Plan, there are material considerations which outweigh the position of the Development Plan and justify a recommendation of approval.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application site is located within the settlement boundary of Perth, on the southern edge. The Aviva campus, the main building of which is Category A listed, lies to the south in an elevated position. Currently access is from the main Aviva service road, through a vacant site to the southwest. This area previously used as a hotel/training centre linked to Aviva. Topography generally falls by c.5 metres west to east towards woodland (forming the Buckie Braes) and a row of traditional stone cottages. To the northwest, across Necessity Brae is a residential area.
- 2 Outline planning permission has previously been granted on a wider site, this including office use on the site and the subsequently developed housing across Necessity Brae. The office element has never progressed.
- 3 Aldi have explored extending their current store at Glasgow Road, which is allocated in the Perth and Kinross Local Development Plan 2 within an 'Employment Safeguarding' adjacent to the city centre. However they consider the site is not large enough to deliver the business requirements sought in this proposal. The existing store extends to a gross floorspace of 1,173sq metres and the new store would increase to 1,884sq metres. In order to limit the drawing of trade away from the city centre area, the permission for the existing store will in part be revoked, to remove the ability to use it for Class 1 (retail)

purposes and the new store, in terms of retail impacts on existing identified centres, considered only on the basis of it's uplift in retail floorspace rather than in addition to the vacated store. The revocation process would require to be completed before any positive decision was issued, if this proposal is supported by committee.

- 4 In addition to delivering a new retail store, replacing that at Glasgow Road. The plans also include a new access junction from Necessity Brae, parking facilities, retaining structures and landscaping.

Pre-Application Consultation

- 5 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore, the applicant was not required to undertake any formal pre-application consultation with the local community.
- 6 The applicant did however undertake engagement early with the local community and Councillors, to inform their submission.
- 7 Online consultations were held with virtual question and answer sessions. The report on this indicates that there was a good level of support for the scheme from 250 respondents (c.64%), with the concerns raised being considered and responded to in the final submitted design, etc.

NATIONAL POLICY AND GUIDANCE

- 8 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

National Planning Framework 2014

- 9 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. This is a statutory document and material consideration in any planning application. It provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

The Scottish Planning Policy 2014 (SSP)

- 10 The Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
 - The preparation of development plans;
 - The design of development, from initial concept through to delivery; and

- The determination of planning applications and appeals.
- 11 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability: paragraphs 24 – 35
 - Placemaking: paragraphs 36 – 57
 - Promoting Town Centres: paragraphs 58 – 73
 - Supporting Business and Employment: paragraphs 92 – 108
 - Valuing the Historic Environment: paragraphs 135 – 151
 - Valuing the Natural Environment: paragraphs 193 – 218
 - Maximising the Benefits of Green Infrastructure: paragraphs 219 – 233
 - Managing Flood Risk and Drainage: paragraphs 254 – 268
 - Promoting Sustainable Transport and Active Travel: paragraphs 269 – 291

Planning Advice Notes

- 12 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 61 Planning and Sustainable Urban Drainage Systems
 - PAN 68 Design Statements
 - PAN 69 Planning and Building standards Advice on Flooding
 - PAN 75 Planning for Transport
 - PAN 77 Designing Safer Places

Other Material Considerations

[Getting the Right Change: A Retail Strategy for Scotland](#) – March 2022

Scotland Retail Strategy

- 13 The 'Place Principle' adopted in this recent Scottish Government publication is one where people, location and resources combine to create a sense of identity and purpose, and is at the heart of addressing the needs and realising the full potential of communities. Creating communities and places people want to visit, live and shop in, is seen as vital to Scotland's Covid recovery – not only for retail, but for culture, hospitality and tourism too. Where there are actions to support a strong local retail and cultural destinations, there will be opportunities for other businesses, such as hospitality and tourism, to capitalise on increased footfall. '20 minute' neighbourhoods are places where people live within 20 minutes of walking, wheeling, cycling or using public transport to reach key amenities like shops, services and green spaces.

[Scotland's National Strategy for Economic Transformation](#): Published March 2022.

- 14 The Scottish Government launched its Economic Development Plan with a vision to create a well-being economy: a society that is thriving across

economic, social, and environmental dimensions, and that delivers prosperity for all Scotland's people and places. The aim to achieve this while respecting environmental limits embodied by our climate and nature targets. Whilst creating this vision to increase investment and increase productivity.

Creating Places 2013

- 15 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

National Roads Development Guide 2014

- 16 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

DEVELOPMENT PLAN

- 17 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2019.

TAYPlan Strategic Development Plan 2016-2036

- 18 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”

- 19 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.
 - Policy 3: First choice for investment
 - Policy 5: Town Centres First

Perth and Kinross Local Development Plan 2

- 20 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

21 The principal relevant policies are, in summary:

- Policy 1: Placemaking
- Policy 2: Design Statements
- Policy 5: Infrastructure Contributions
- Policy 6: Settlement Boundaries
- Policy 7: Employment and Mixed Used Areas: Business and Industrial
- Policy 13: Retail and Commercial Leisure Proposals
- Policy 15: Public Access
- Policy 16: Social, Cultural and Communities Facilities
- Policy 25: Housing Mix
- Policy 27: Listed Buildings
- Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development
- Policy 38: Environment and Conservation
- Policy 39: Landscape
- Policy 40: Forestry, Woodland and Trees
- Policy 41: Biodiversity
- Policy 52: New Development and Flooding
- Policy 53: Water Environment and Drainage
- Policy 55: Nuisance from Artificial Light and Light Pollution
- Policy 56: Noise Pollution
- Policy 57: Air Quality
- Policy 60: Transport Standards and Accessibility Requirements

Other Policies

Developer Contributions and Affordable Housing Supplementary Guidance April 2020

22 This document sets out the Council's policies on Developer Contributions in relation to Primary Education and Transport Infrastructure/A9 junction upgrades, as well as setting out what Affordable Housing provision is required for new developments.

Placemaking Supplementary Guidance 2020

23 The Council has prepared Placemaking Supplementary Guidance (2020) to support Policy 1 (Placemaking) of the Perth and Kinross Local Development Plan 2 (2019). It is to be used in the assessment of planning applications and to assist in the placemaking process.

Perth and Kinross Town Centre and Retail Study 2016

24 The retail study is the most up to date assessment that has been undertaken of capacity across the city to accommodate additional retail floorspace.

SITE HISTORY

25 [08/00122/OUT](#) Outline planning permission was approved on 15 August 2008 for a mixed use development comprising residential, hotel with associated

public house/restaurant, care home and offices with associated car parking, internal access roads and adjusted site levels.

- 26 [14/00269/AMM](#) related to the above parent permission and a subsequent Section 42 consent (11/00933/FLM) matters specified in conditions were approved on 12 September 2014 for the residential development now present on the north side of Necessity Brae.

CONSULTATIONS

- 27 As part of the planning application process the following bodies were consulted:

External

- 28 **Historic Environment Scotland** – No objection, initial concerns addressed by submission of a Heritage Assessment.
- 29 **Scottish Water** – No objection. Note that capacity is available for foul and water, subject to an application to secure connections.

Internal

- 30 **Biodiversity/Tree Officer** – No objection. Advise of no impact on protected species. Concerns raised over the removal of trees and limited of biodiversity enhancements.
- 31 **Community Greenspace** – Initially objected to the proposals on the basis of landscape concerns. It was considered that these were largely addressed by the subsequent heritage assessment, design/boundary revisions and updated landscaping proposals.
- 32 **Development Contributions Officer** – No objection. Advise a contribution is required for transport infrastructure (£87,654).
- 33 **Environmental Health (Contaminated Land)** – No objection and no conditions required.
- 34 **Environmental Health (Noise Odour)** - No objection. Conditions recommended related to noise, lighting and constriction management.
- 35 **Structures And Flooding** – No objection to drainage proposals.
- 36 **Transport Planning** – No objection. Conditions recommended for construction traffic management, road improvements and submission of travel plan.

Representations

- 37 27 representations have been received, 16 in support and 11 objections. The main issues raised within the representations are:

38 Support

- Employment Provision
- Enhances Character of Area
- Results in Environmental Improvements
- Supports Economic Development
- Provides a shop within walking distance/shorter car trips

39 Objections

- Impact on Buckie Braes
- Out of character with the area
- Adverse effect on visual amenity
- Contrary to development plan policy
- Inappropriate land use
- Loss of open space
- Loss of trees
- Noise pollution
- Road safety concerns
- Traffic congestion
- Flooding

40 These issues are addressed in the Appraisal section of the report.

ADDITIONAL STATEMENTS

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not Required
Appropriate Assessment	Habitats Regulations Appraisal AA Not Required
Design Statement or Design and Access Statement	Submitted
Reports on Impact or Potential Impact	<ul style="list-style-type: none">• Heritage Assessment,• Landscape Design Statement,• Tree Survey,• Planning and Retail Statement,• Employment Land and Viability Report,• Drainage Impact Assessment inc Flood Risk Assessment,• Geo-Environmental Assessment,• Consultation Report,• Transport Assessment,• Ecological Survey,• Noise Report.

APPRAISAL

- 41 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2019. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance.
- 42 In this instance, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities in determining such an application as this to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Principle

- 43 Aldi currently operate two stores in Perth, with the Glasgow Road store one of the smallest in their Scottish portfolio with a gross floorspace of 1,173sq metres. As such Aldi have been exploring opportunities to improve this stores offering to be more in line with its other stores, such as through an extension. However, they advise this has not been feasible, due to the physical and operational constraints of that site. The alternative instead being to relocate to a larger site within the city. As a result of the alternative location, the existing store on Glasgow Road would be closed and the ability of the building to operate as a Class 1 retail facility removed, through a formal revocation.
- 44 In seeking a new site within the city, Aldi considered a range of options including alternative locations within the city centre, although none were available, nor any sequentially preferable – in terms of retail policy considerations. Following this, efforts were focused on considering sites in the southern part of Perth, given their existing presence at Inveralmond (covering the north area), leading to the selection of the application site. The Necessity Brae site considered to occupy a prominent location, in a walkable location which is highly accessible via a range of sustainable transport modes, given the proximity to the A93. The proposal therefore aligns with the principles contained within the Scottish Government's Retail Strategy for Scotland published in March of this year.
- 45 The site has been allocated in Local Development Plans for employment uses for a number of years and planning permission has previously been granted for a mixed commercial development. However, the site has remained vacant and the supporting statement details that there has not been any credible interest for office development. Furthermore, a viability appraisal has been completed which further identifies that development of the site for office, industrial or hotel use would not be viable due to the significant abnormal development costs associated to the site adversely affecting returns on investment and making it unattractive to investors.

- 46 In terms of the principle of retail use the site is identified as employment site E165 within LDP2, specifically for employment uses (core), hotel, and non-residential institutions – reflective of the historic planning permission.
- 47 Policy 7 Employment and mixed-use areas applies and in relation to a proposed retail use it has the following limited exceptions:
- ‘(d) Proposals for retail uses in employment areas will not be acceptable unless they are ancillary to an acceptable use on the site:
- (e) Proposals for service facilities (should exclude retail and commercial facilities over 100 m²) and should serve the business and industrial area rather than draw out-side trade and cumulatively should not equal more than 15% of the allocated employment area.’
- 48 The proposed retail use does not meet either of these exceptions. Thus, the proposal is contrary to the LDP2 Policy 7 and to the uses identified for E165.
- 49 The supporting Employment Land and Viability Report (ELVR) acknowledges that PKC’s Employment Land Audit shows an employment land supply of 213ha within Perth Core. However, this land supply largely relies on sites yet to be serviced. In terms of sites which are already serviced and more readily available, such as E165, there is a more limited supply. When considering impact on employment land supply the Employment Land Audit 2020 identifies that of the 22.23 ha of serviced land available within Perth Core area, 2.15 ha is within E165, and 0.97ha of it would be lost if this planning application is approved. In this regard it is noted that PKC are committed to providing 11.25 ha of employment land over the next five years (to meet demand), although not directly in control of delivery.
- 50 The site has potential to attract employment uses (class 4, 5 or 6), due to the good public transport provision, including dedicated bus services to the adjacent Aviva. It is however acknowledged that the Post covid-19 situation is more uncertain. The ELVR also identifies that neither an office, industrial or hotel scheme is likely to be viable on the site, given the significant costs of developing the site. PKC’s Estates and Commercial Investment team have confirmed that the ELVR is well researched and makes a robust supporting case on non-viability. Furthermore, given the lack of delivery of the employment uses on site while other aspects have been delivered, the tabled proposal would also align with Scotland’s National Strategy for Economic Transformation in that the development would increase investment in the area whilst also catering for social and economic benefits locally.
- 51 It must therefore be considered whether the loss of 0.97ha is significant in terms of the serviced employment land and the wider supply. In real terms 0.5% of the overall employment land allocation in Perth Core would be lost, furthermore it would lead to a loss of 4.3% of the serviced employment land in that Core.

- 52 Policy 13 Retail and Commercial Leisure Proposals is another key policy in terms of considering the principle of this proposal. The Council's own Retail Study from 2016 identifies convenience retail capacity within the Perth catchment. From the applicant's assessment, it is stated that this floorspace uplift can easily be accommodated, without significant impact on any protected centre.
- 53 The proposed store is a direct, if slightly larger, replacement for Aldi's existing store at Glasgow Road. However, if the planning permission is granted without securing the revocation of the retail use of the Glasgow Road store then there would be a need for a Retail Impact Assessment (RIA) to consider the impacts of an additional of 1,884m² gross convenience floor space on existing identified centres. This being reflective of Policy 13 within LDP2 which states, "*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.*" However, if the existing out of centre retail use is revoked then this proposal would only result in an additional 711m² of gross floorspace, containing 444m² of retail floorspace (355m² for food sales and 89 m² non-food). Only on this basis is it considered that a RIA is not required.
- 54 The Perth and Kinross Town Centre and Retail Study 2016 acknowledges two main considerations and states, "*In terms of the distribution of potential opportunities for new store development in the Perth sub area, it is reasonable to consider that Scone is a possible location for new store development to serve the local population. For example, there would be capacity to support the existing supermarket consent at Scone, or an alternative proposal, such as a discount food store.*"
- 55 It is considered that the additional 444m² of discount store provision proposed helps address spare capacity for discount food store identified in the Perth and Kinross Town Centre and Retail Study 2016, although not in Scone. However the south/west area of Perth is one which is now identified for significant future growth and has seen some of this in recent years – post 2016. Furthermore, the applicant has submitted a sequential assessment and it is considered that the proposal meets the sequential test, as there are no suitable opportunities within sequentially preferable locations.
- 56 The following are site specific developer requirements associated to the E165 allocation:
- Connect to the core path network to east.
 - Tree survey required: enhancement of biodiversity and habitats and retention of existing woodland.
 - Flood Risk Assessment.
- 57 These are considered in more detail in subsequent sections of the report.
- 58 Overall, the proposed retail use is contrary to LDP2 Policy 7: Employment and Mixed - Use Areas as well as the specific land use allocation set out in E165, thus a departure from the Development Plan. However, alongside the

revocation of the Glasgow Road retail use it is considered that the proposal is in accordance with Policy 13: Retail and Commercial proposals, as it meets the sequential test which indicates there are no suitable opportunities within better locations. In addition, the proposal would see 0.97ha developed of the remaining 2.1ha at E165, leaving 1.13 ha for employment uses. In turn the proposal could allow the existing Aldi site to be utilised for Class 4, 5 and 6 potentially bringing 0.4 ha of serviced employment land forward, which is currently in Class 1 (retail) use.

Design and Layout

- 59 The proposed retail unit with car parking, servicing and landscaping sees a single storey building located to the south of the site with the service area contained to the rear. The access is to the west onto Necessity Brae and the carpark lies to the north/northwest.
- 60 The building has a simple rectangular floor plan with a low mono-pitch roof. The site, due to the sloping topography, requires land engineering works to increase levels and create a platform for development. The building is to be sited in the northern part, where no significant increase in levels are required. Where the levels require to be increased and retained, to a maximum height of c.4.95m (to the north/east) carparking areas will be provided. The platforming and cut and fill of sloping sites is not uncommon and can include the use of masonry/ concrete retaining walls, gabion baskets or a crib lock structures. However, the approach proposed seeks to mitigate the impacts and provide a softer solution via the use of 'Tensar Greenslope', which is a naturally vegetated, steep-slope earth retaining system.
- 61 The buildings finishes were originally to be a grey roof and wall cladding with a small amount of timber. The plans have since been revised and now see expansive timber cladding to walls and the roof finished in green coloured panels, to tie in with the natural character of the site and the immediate context of the woodland backdrop.
- 62 The design, siting and materials are considered to be acceptable and comply with Policy 1 Placemaking and the Placemaking Supplementary Guidance.

Residential Amenity

- 63 The proposed opening hours of the store are between 8am and 10pm, Monday to Saturday and 9am to 8pm on Sundays.
- 64 The site sees the closest residential properties to the east at 1 to 4 Pickembere (Low Road) and then to the northwest (separated by Necessity Brae) where there are flatted properties at Arthur Park.
- 65 The store and its service yard are located to the south of the site set at the furthest point from these dwellings. The car park is however sited closer to 1 to 4 Pickembere.

Air Quality

- 66 The site is within the Perth Air Quality Management Area (AQMA) and an Air Quality Assessment (AQA) supports the application. The AQA aligns with the submitted Transport Assessment and has used the traffic data from the recently produced Systra 2019 baseline traffic model for Perth. In line with the Institute Air Quality Management impact descriptor the AQA concluded that the impact from the proposed development will be insignificant for all pollutants.
- 67 A dust assessment was also undertaken to assess construction phase impacts and concluded that dust generated from the site construction activities would be low risk. However, a construction management plan shall be required by condition to ensure control measures and procedure to mitigate the effects of dust and noise during the construction period of the development. (Condition 7)

Noise

- 68 The submission is also accompanied by a Noise Impact Assessment (NIA) which assesses noise from the proposed car park, store service area, fixed plant noise sources and deposit return scheme facilities.
- 69 The NIA concluded that no additional mitigation noise control measures would be required. As the development is not likely to have a detrimental effect on the existing residential amenity at closest dwellinghouses for both daytime and night-time as target criteria levels are not exceeded. Conditions are recommended in relation to noise to ensure that residential amenity is protected from noise from the daily operations of the development. (Conditions 2, 3, 4 and 5)
- 70 The NIA did not assess construction noise at the closest noise sensitive residential properties therefore, a condition to control noise during the construction phase due to the close proximity of the site to residential properties is proposed. (Condition 15)

Lighting

- 71 The carpark would be at a higher level than the current ground level, as a result of site level works. However, the retaining structure would form a pediment enclosure to the boundaries which will screen car headlights. Otherwise, an overall lighting scheme is proposed for the carpark and a condition will be added to ensure that this is adequately screened. (Condition 6)
- 72 It is therefore concluded that there is no unacceptable impact on residential amenity from lighting and, subject to the conditions proposed, the proposal complies with LDP2 Policies 17, 55, 56 and 57.

Contaminated Land

- 73 Site investigations have been undertaken to support a previous application for a larger site (which included the application site). This saw no constraints to the site's redevelopment due to the presence of any contamination.

Roads and Access

- 74 The proposed vehicle and pedestrian access is to be formed directly onto the B9112 (Necessity Brae). The site-specific developer requirements states that connection is to be made to the core path network to east. However, this is not included in the proposal, due to the change in levels which would require a substantial stepped/ramp access and also reduce the potential for landscaping/compensatory planting. It is also considered that the link would offer little benefit, as the Buckie Breas lead out of Perth and do not connect any residential areas. As such this aspect is not considered necessary.
- 75 The site will be served by 100 parking spaces, including 8 accessible (two of which would see electric vehicle charging points (EVCP)) along with 9 parent and child spaces, and 4 EVCPs, (2 of which will be accessible, in addition to the 6 disabled spaces). Furthermore, ducting will be provided within the car park for a further 16 EVCPs should the need arise in the future. Cycle stands will also be installed at the shopfront, for up to 10 bicycles. This is an acceptable level of car and cycle parking for the development. A condition is recommended to secure the minimum number of cycle parking spaces and the timing of their installation. (Condition 11)
- 76 The delivery regime for Aldi stores generally involves the following: one to two HGV deliveries (16.5m vehicles) and a smaller milk delivery (small rigid truck) each day. The HGV driving forwards into the site, reversing into the carpark and then exit the site in forward gear.
- 77 To facilitate the vehicle access into the site, the proposal is to relocate the southwest bound bus stop.
- 78 Trip generation information for the development, shows that there will be a number of new trips and pass-by trips attracted to the store.
- 79 With approximately 300 residential properties to the northern side of Necessity Brae, it is considered that a signalised pedestrian crossing should be provided to enable residents to cross and access the proposed Aldi store. The location of the crossing shall be agreed with the roads authority and operational prior to the store opening. (Condition 9)
- 80 The footway on the southern side of Necessity Brae is currently slabbed and resulting increased footfall sees it recommended that an alternative material is considered, such as a Hot Rolled Asphalt. Improving evenness and navigation by those with visual impairment. (Condition 9)
- 81 With the large employment at Aviva to the southwest, it is recommended that the footway to the west of the proposed vehicle access is extended round into the site to the gas meter housing, to reduce the conflict between pedestrians and vehicles. (Condition 9)
- 82 Proposed 'yellow box' junction markings shall be subject to further discussion with Perth & Kinross Council and Police Scotland, therefore the implementation of the yellow box markings would not be approved through this planning

application. An informative is recommended for discussions to take place, prior to the implementation on the public road network. (Informative 11)

- 83 Overall, the proposal is considered to comply with LDP2 Policy 60: Transport Standards and Accessibility Requirements.

Drainage and Flooding

- 84 The application is supported by a Drainage Impact Assessment which includes a Flood Risk Assessment. This sees the site not identified within an area of flood risk, but there are known surface water flooding issues within the area. The reports submitted have considered these issues and drainage proposed to ensure the development does not contribute to any existing issues.
- 85 The development is also to be connected to the Scottish Water network for water and foul drainage. Scottish Water note that the following assets are within/or close proximity: a 225mm foul and combined sewer, 100mm surface water sewer and a 200mm distribution main. These have impacted the development layout and the planting scheme.
- 86 It is considered that the proposal complies with LDP2 Policy 52 - New Development and Flooding and Policy 53 - Water Environment and Drainage

Conservation Considerations

- 87 The site is located to the north of the category A listed Aviva Insurance Building. Historic Environment Scotland (HES) initially considered that the development proposed could have a negative impact on key views from the Aviva Building in the immediate designed landscape which slopes down to the development site. To better understand the impacts, they recommended that further analysis of the setting was carried out to inform the design, proposed materials and mitigation measures. Also advising that visualisations should be produced to confirm the appearance of the building and car park in key views northwards from the Aviva Building.
- 88 This information has been submitted and HES reconsulted, where they welcome the amendments and supporting information in the revisions that are in line with their previous advice. These include a new Heritage Assessment, updated Design and Access statement and landscape design plan, and changes to the building design. They particularly welcome the visualisations which help to show how the building will be seen in key views from the Aviva building.
- 89 It is therefore considered that the proposed mitigation measures – including changes to the roof colour and removal of cowls, timber clad elevations, and redefining of the northern edge of the site with micro siting of new trees - will make the supermarket building sufficiently recessive in the setting of the Aviva Building. The proposal is therefore considered to comply with Policy 28 Listed Buildings of LDP2.

Natural Heritage and Biodiversity

- 90 A Preliminary Ecological Appraisal Report (PEAR) was undertaken in September 2020 in accordance with best practice guidance. The PEAR reported that the trees present were not suitable to support roosting bats and no evidence of mammals were found within the site or immediate surroundings.
- 91 Overall, the site was assessed as providing low suitability to support protected species and no evidence was found during the survey.
- 92 The PEAR notes that the trees provide suitable nesting habitat for small bird species and several birds were recorded during the survey. The grassland within the site was noted as having a tall sward height and suitable for breeding birds, but that human disturbance may limit this. As recommended in section 5:2 of the PEAR, any vegetation clearance must be undertaken outside of the bird breeding season. This will be covered by recommended Condition 13.
- 93 The Biodiversity Officer noted that the original landscaping scheme could offer enhancement for biodiversity. The revised plans have enhanced this by including planting to tie in with the Buckie Braes, planting native trees, pollinator friendly planting, installing a variety of bird boxes, a bee post and pole mounted bat boxes.
- 94 Although the proposal involves significant clearance of trees there will be no detrimental impact on protected species and the proposal is incorporating biodiversity enhancement. The proposal is therefore considered to comply with

Policy 41 Biodiversity.

Trees/Landscape

- 95 The site is covered by a mix of tree species that are spread throughout forming small groupings and boundary screening. It is evident that a significant number of trees would need to be felled to enable the development of the site as there is not any significant existing clearing for either a building or parking. In addition, the site layout requires a new access point, engineering works and sewer diversions, all further impacting tree retention. This is also confirmed in supporting documents, which confirm it would not be feasible to retain a significant amount of the trees and see the site developed for any significant use, not just a supermarket. It is therefore accepted that trees will need to be felled to facilitate the development of this site and whilst the level of tree felling is unfortunate it must overall be weighted against the benefits of bringing a site forward. All recognising that it is zoned for development, is within the settlement boundary, meets a retail need within the area, will serve an existing residential population who can access on foot and will also provide employment opportunities.
- 96 If the tree loss is accepted then the landscaping scheme must offer acceptable mitigation. In this sense the initial landscaping scheme has been revised to address concerns regarding the species chosen, etc. but also due to clarifications on drainage wayleaves which has seen planting removed from

areas where it was previously shown. The revised scheme also includes a small amount of planting beyond the site boundary which the agent confirms has been discussed with the relevant landowners. Whilst this planting is welcomed it couldn't be controlled via condition or enforced and is therefore not a determining issue in relation to the acceptability of the scheme.

- 97 The supporting statement advises that 95 trees are to be removed, with only one tree at the north boundary identified for retention. The revised landscape plan sees 102 trees to be planted, comprising: 2 trees at the west boundary, 46 at north, 40 at east, with 14 trees off site. Overall the increase in tree numbers is heavily weighted to the east. This provides screening of the site to walkers accessing Buckie Braes addressing some of the Community Greenspace comments it also affords screening to the local residents adjacent to the east boundary.
- 98 The landscaping scheme includes herbaceous planting along the boundary with Necessity Brae, this offers benefit for pollinators but would not screen the building. The supporting documents note that due to wayleaves and position of retaining slopes tree planting cannot be accommodated within this area. It must also be noted that in planning terms it is not necessary to hide or screen the development it is more important that the cumulative impacts of the proposal can be accommodated within the landscape capacity. It is considered that the design of the building and colour pallet of materials (timber cladding/green roof) will enable the building to blend with the landscape backdrop. The use of the Tensar Greenslope will also help integrate the retaining structures into the landscape framework the herbaceous planting can contribute in providing a green edge.
- 99 The landscape proposals for the site are considered to provide adequate mitigation and to comply with Policy 1 Placemaking. The proposal is also considered to comply with Policy 40 Forestry, Woodland and Trees as mitigation in the form of replacement planting has been included.

Developer Contributions

- 100 The Councils Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth.
- 101 In this regard the site is located in the Perth Transport Infrastructure zone (Appendix 3 of the Supplementary Guidance).
- 102 The planning application form confirms that the proposed retail unit is 1,884 sqm of gross floorspace, comprising; trading (1,315 sqm) and non-trading floorspace (569 sqm). In line with par 6.8 of the Supplementary Guidance, trading floorspace is calculated under the "Retail" contribution rate (£154 per sqm) and non-trading floorspace is calculated under the "Employment" contribution rate (£14 per sqm).
- 103 It is however proposed that the retail operator's existing site (located on Glasgow Road) will see its retail permission revoked if this proposal is granted.

Therefore, only the net increase in floorspace will be assessed for Contributions.

- 104 The applicant's Planning Statement (par 1.11) indicates that the existing retail site provides 1,173 sqm gross floorspace, comprising; 760 sqm net floorspace. This provides 760 sqm trading and 413 sqm non-trading. The contribution required is therefore as follows:
- 105 Trading: $(1,315 - 760 \text{ sqm}) 555 \text{ sqm} \times £154 = £85,470$
Non-trading: $(569 - 413 \text{ sqm}) 156 \times £14 = £2,184$
Total: £87,654

Economic Impact

- 106 The supporting information indicates that all existing employees at Glasgow Road would be transferred to the proposed new store. with an opportunity for further full and part time roles. It will also provide additional employment during the construction process.
- 107 The proposal will also in turn through the closure and vacating of the existing store provide an opportunity for new uses and associated economic activity. As the existing building would no longer have a lawful use, due to the revocation, its location within a Class 4, 5, 6 allocation within LDP2 would see the principle of such uses and the associated employment opportunities acceptable in principle – subject to obtaining planning permission for such a use.

Sustainable Development

- 108 Policy 32 requires that proposals for all new buildings are required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies.
- 109 The supporting statement details that the objective is to minimise energy needs in development by following the Government's Energy Hierarchy approach to minimising energy use. This includes the innovative "heat recovery" technology which removes 100% of a store's requirement for heating equipment by recycling heat from the refrigeration units. In this case a condition will be added so this can be agreed formally as the details submitted don't cover the specific 10% requirement as outlined in the policy. (Condition 14)

VARIATION OF APPLICATION UNDER SECTION 32A

- 110 This application was varied prior to determination, in accordance with the terms of section 32A of the Town and Country Planning (Scotland) Act 1997, as amended. The variations incorporate changes to the landscaping scheme, finish materials and submission of additional supporting documents.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 111 The applicant will be required to enter into a Section 75 legal agreement in order to secure the necessary contributions towards transport infrastructure.
- 112 The existing permission for the Glasgow Road store will need to be part revoked so that the retail use is removed as the applicant is seeking to justify this application as an uplift in the existing retail store offering and not as a new store. This can be done under Section 65 of the Town and Country Planning (Scotland) Act (as amended) which allows a planning authority to revoke or modify a planning consent.

DIRECTION BY SCOTTISH MINISTERS

- 113 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 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

- 114 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is contrary to Policy 7 in that it would provide a non-conforming use (Class 1 –Retail) and lead to a loss of employment land, however a justification has been provided for the retail need in the area in accordance with Policy 13. It is therefore considered due to the site forming a small proportion of the overall employment land supply and that as there is no available/more preferable site that in this case there is a justification to override the adopted Development Plan.
- 115 Accordingly the proposal is recommended for approval subject to conclusion of the required legal agreement(s) and thereafter the following conditions.

A RECOMMENDATION

Conditions and Reasons for Recommendation

- 1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

- 2. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason - In order to safeguard the neighbouring residential amenity in the area.

3. Noise levels from the operation and servicing of the development shall be limited to an internal night-time target noise level of 42 dB LAFmax at residential receptors.

Reason - In order to safeguard the neighbouring residential amenity in the area.

4. Prior to the commencement of the development a Service Delivery Noise Management Plan, shall be submitted to and agreed in writing by the Council as Planning Authority and Environmental Health. The plan shall include the procedures and mitigation measures to control noise from all service delivery operations of the store. The details as approved shall then be implemented in full as part of the operation of the site.

Reason - In order to safeguard the neighbouring residential amenity in the area.

5. In the event of a justified noise complaint being received by the Council relating to the operation of the development hereby approved, the operator shall, at its own expense, employ a consultant approved by the Planning Authority to carry out a noise assessment. The assessment will be carried out to an appropriate methodology agreed in writing with the Planning Authority. If the noise assessment shows that the noise levels do not comply with noise conditions, a scheme of noise mitigation shall be included with the noise assessment, specifying timescales for the implementation of the scheme, and shall be submitted to the Planning Authority with 28 days of the assessment. The mitigation scheme shall thereafter be implemented in accordance with the approved scheme and timescales and included within an updated Noise Management Plan.

Reason - In order to safeguard the neighbouring residential amenity in the area.

6. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.

Reason - In order to safeguard the neighbouring residential amenity in the area.

7. Prior to the commencement of the development a Construction Management Plan shall be submitted to and agreed in writing by the Council as Planning Authority and Environmental Health. The CMP shall include a Dust Management Plan for the control of dust and Noise Management Plan for the control of noise during the construction phase of the development.

Reason - In order to safeguard the neighbouring residential amenity in the area.

8. Prior to the commencement of the development hereby approved, the applicant shall submit a street light system designed to EN 13201 / BS 5489 to be provided at the vehicle entrance to the development. The type and standard of lighting shall be assessed using the zoning system outlined in 'The Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution' and be agreed in writing with the Council as Planning Authority and implemented in accordance with the approved plans.

Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.

9. Prior to the commencement of development, a detail design showing the vehicle access onto B9112 Necessity Brae with the following schemes shall be provided for:
 - (a) a signalised pedestrian crossing on B9112 Necessity Brae to link footways on either side of the road from the development site to the housing on the north and northwest;
 - (b) a footway from the west of the vehicle access into the site round to the gas meter housing;
 - (c) the finalised position of the relocated bus stop and associated road markings; and
 - (d) the footway along the B9112 removing the slabbing to replace with for example hot rolled asphalt between Low Road and Aviva's most northerly vehicle access,

The scheme shall be submitted to, and approved in writing by, the Council as Planning Authority. The submission will confirm the location, specification, detailed design and delivery timescales for the pedestrian crossing, footway link from the west into the site, the relocation of the bus stop and footway at the frontage of the development site. The scheme for the approved shall thereafter be implemented in full, prior to the opening of the retail unit.

Reason - In the interests of road, pedestrian safety and connectivity with the residential developments to the north and northwest of the development.

10. No part of the development shall be occupied until a Travel Plan (TP), aimed to encourage more sustainable means of travel, has been submitted and approved in writing by the Council. The TP will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.

Reason - To promote sustainable transport options and to meet advice within Scottish Planning Policy on transport.

11. Prior to occupation of the development on site, a cycle parking facility (Sheffield Stand or equivalent) for a minimum of 10 cycles shall be provided at the location detailed on drawing ref 35.

Reason - To encourage active travel and meet advice within Scottish Planning Policy on transport.

12. Prior to the commencement of the development hereby approved, the applicant shall submit for the further written agreement of the Council as Planning Authority, in consultation with the Roads Authority (Structures), a Construction Traffic Management Scheme (TMS) which shall include the following:
- (a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
 - (b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
 - (c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
 - (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
 - (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
 - (f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
 - (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
 - (h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
 - (i) details of information signs to inform other road users of construction traffic;
 - (j) arrangements to ensure that access for emergency service vehicles are not impeded;
 - (k) co-ordination with other significant developments known to use roads affected by construction traffic;
 - (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
 - (m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
 - (n) monitoring, reporting and implementation arrangements;
 - (o) arrangements for dealing with non-compliance; and
 - (p) details of HGV movements to and from the site.
- The TMS as approved shall be strictly adhered to during the entire site construction programme.

Reason - In the interest of proper site management

13. No removal of hedgerows, trees or shrubs or works to, or demolition of, buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared or building affected, and provided written confirmation that no birds will be harmed and/or that there are

appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Planning Authority.

Reason - In the interests of protecting environmental quality and of biodiversity.

14. Prior to the commencement of development a statement shall be submitted demonstrating compliance that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies. The measures as agreed shall be installed prior to operation/binging into use of the development.

Reason - to comply with Policy 32 of the Local Development Plan 2

15. Noisy Construction work shall be limited to Monday to Friday 0700 hours to 1900 hours and Saturday 0800 hours to 1300 hours with no noisy works out with these times or at any time on Sundays or bank holidays (as identified by Scottish Government).

Reason - In order to safeguard the neighbouring residential amenity in the area.

16. The detailed landscaping and planting scheme which is hereby approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

B JUSTIFICATION

There are material considerations that result in a recommendation to depart from the approved Development Plan

C PROCEDURAL NOTES

Permission shall not to be issued until the Section 75 Agreement and revocation of the use of the existing store has been signed and registered to take account of this application. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and may be ultimately recommended for refusal under delegated powers

D INFORMATIVES

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. No work requiring of a building warrant shall be commenced until an application for building warrant has been submitted and approved.
5. Application for a new postal address should be made via the Street Naming and Numbering page on the Perth & Kinross Council website at www.pkc.gov.uk/snn. Please note there is a charge for this service and submission cannot be made until the relevant Building Warrant has been approved.
6. This planning permission is granted subject to conditions, some of which require further information to be submitted to Development Management either before works can start on site or at a certain time. The required information must be submitted via the ePlanning portal if your original application was lodged that way, otherwise send it to us at developmentmanagement@pkc.gov.uk. Please be aware that a fee is payable in respect of each request made, though there is no limit to the number of conditions that can be discharged in a single request. The Fees Charter is available on our website www.pkc.gov.uk.
7. An inspection of the proposed development site did not raise any identified concerns, although historical mapping indicates there was previously a nearby use which may have resulted in contamination in the vicinity of the site. The applicant is advised that, given historical uses of the wider area, there may be potential for contamination within the site. Should any contamination be found during the approved works, works should cease and the Land Quality team should be contacted on 01738 475000 or es@pkc.gov.uk for further advice.
8. The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council, as Roads Authority, consent to open an existing road or footway prior to the commencement of works. Information on junction types, requirements for Vehicular Access consents (VA1) and application forms are available at www.pkc.gov.uk/vehicleaccess. Advice on the disposal of surface water should be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
9. Street lighting plant is present at the site, discussions must be had with the Street Lighting Partnership to obtain the locations of plant and the position of

the lighting columns at the vehicle access. Contact Mark Gorrie at Perth & Kinross Council Street Lighting Department for further details.

10. This application was varied prior to determination, in accordance with the terms of section 32A of the Town and Country Planning (Scotland) Act 1997, as amended. The variations incorporate changes to landscaping, elevation finishes and supporting docs.
11. Prior to the installation of the Yellow Box Junction Markings on the B9112 Necessity Brae, approval must take place with Police Scotland and the Roads Authority. The Yellow Box Junction Markings must comply with *Section 8 of Traffic Signs Manual, Chapter 5 – Road markings (Department of Transport, 2018)*, including their suitability. The and Network Team should be contacted in this regard traffic@pkc.gov.uk

Background Papers: 27 letters of representation
Contact Officer: Joanne Ferguson
Date: 19 May 2022

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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