

Perth and Kinross Council  
Development Management Committee – 14 September 2016  
Report of Handling by Development Quality Manager

Renewal of permission 09/02126/FLM (erection of a retail superstore (Class 1) and petrol filling station with associated landscape treatment and engineering works) at United Auctions Ltd, Perth Agricultural Centre, East Huntingtower, Perth

Ref No: 16/00696/FLM  
Ward No: 9 Almond and Earn

**Summary**

This report recommends approval of the application for a renewal of planning permission for retail development (Class 1 Supermarket) and associated landscape treatment and engineering works. Although the development is considered contrary to some policies of the Development Plan, SPP 2014 and Scottish Government guidance in relation to retail impact, however based on the Councils Retail Study in 2014 there are further material considerations which justify support.

**BACKGROUND**

- 1 The site is located to the south of the A85 trunk road and to the west of the A9 trunk road as it bypasses the western extent of Perth. There are a number of houses directly opposite the access into the site and extending some 160 metres along the A85. To the east of the A9 lie established residential areas with the closest housing being approximately 120 metres from the site.
- 2 The site is bounded to the west by the boundary of the former agricultural mart landholding which is defined by a hedge and core footpath running north-south. The footpath, which is located outwith the application site boundary, meets a path running west-east some distance to the south of the application site, along what was the southern boundary of the former mart site.
- 3 The site gradually slopes down from south to north which levels out before reaching Huntingtower Castle. To the south of the site sits Newhouse farm and hills that gradually rise beyond.
- 4 The application site extends to some 6.0 hectares and is located on the footprint of the former United Action Mart, to the west of the Dobbie's Garden Centre at East Huntingtower. It is currently accessed from the A85 along with other existing businesses. Within the site there are significant areas of poor quality hardstanding associated with its previous use.
- 5 Landscaping around the site is already well established due to the use of planting to screen the previous development, the majority of which was undertaken to minimise the impact of development on the edges of the site that border onto open countryside, notably along its western and southern edges. This has resulted in a

planted southern edge some 50 metres thick and a broken line of trees running along the western edge, which itself is raised by a 2 metre high bund feature that runs the length of the site. The trees along the site's western edge run into a 40 metre wide strip of vegetation close to the north west corner of the site. There are mature clumps and strips of woodland around Newhouse farm and along the ridgeline that runs just north of Huntingtower Castle.

- 6 Unlike the previous application the site is now located within the settlement boundary of Perth as defined by the Perth and Kinross Local Development Plan 2014. It is not allocated for a particular use but is classed as a brownfield site due to its previous and current condition.

## **PROPOSAL**

- 7 This site is now under control of administrators and their proposal seeks to renew planning consent 09/02126/FLM for the erection of a retail superstore and petrol filling station with associated landscape treatment and engineering works. The 09/02126/FLM consent expired on 19 April 2016 and this renewal application was submitted on the same day as its expiry. The site is in the process of being marketed for sale by the administrators and they considered there is a need to renew the existing consent to ensure its market value is retained.
- 8 The proposal is to erect a Class 1 (Retail) Supermarket and associated landscape treatment and engineering works. The supermarket is to have a total gross internal area of 9,533 sq.m which will be made up of a total of 6,038 sq.m net sales floor, a customer café of 320 sq.m, an entrance lobby of 83sqm, staff facilities of 450 sq.m and back-up area of 2,158sqm. The proposed foodstore is located on the eastern side of the former Auction Mart site with the car park to the west.
- 9 The associated car park is to have 583 spaces including 28 disabled spaces and 25 parent and child spaces. Within the car park area there will also be trolley storage areas, cycle racks and an area reserved for recycling facilities. The service yard to the east of the retail unit incorporates an unloading dock, pump house, sprinkler tanks and other operational apparatus.
- 10 A six pump petrol filling station (PFS) together with associated underground fuel storage tanks and car wash is shown to be located to the north west of the store, immediately adjacent to the A85 but accessed from the internal site access road. As with the previous application, it should be noted that a planning application (16/00695/FLL) has also been submitted to renew planning permission of a petrol filling station on a revised location to that applied for under this renewal application.
- 11 The main building is proposed in the eastern part of the site. The main entrance to the store will face west across the proposed car park which will occupy the space between the existing footpath and the proposed store. The east elevation will incorporate a service yard. As mentioned above, the development will be provided with vehicular access to the A85 via an existing junction onto to the north of the site which currently serves Dobbies Garden Centre, a Travelodge Hotel and a restaurant/pub. Pedestrian access follows the same route as there are footways adjoining the access road. A ramp access is proposed to the north east of the store

to allow pedestrian access to the recycling area and Dobbies Garden Centre and car park beyond.

- 12 The proposed building is to be some 127m long by 76m wide and approximately 9m high. A canopy overhang of some 7.8m is incorporated into the main elevation with a smaller canopy of some 2m providing limited shelter on the north elevation. The majority of the west elevation, which incorporates the main entrance, is to be glazed, as is part of the return along the north elevation. Internally, the customer café is shown to be located in this area. The remaining walls are shown to be finished in a white composite cladding panel with a flat texture in the main though a few area of natural stone finished panels are incorporated to provide visual variety. The colour stated is blonde/buff. This will tie in with the buff coloured stall riser cladding which features on the eastern elevation. The roof of the building is to be a very low rise trapezoidal form finished in Goosewing Grey (a light grey colour).
- 13 Additional landscaping is proposed along the western boundary of the application site adjacent to the public footpath and to the embankment area to the north of the car park, the latter of which incorporates the significant levels change. Details of the planting could be required by condition should permission be forthcoming.
- 14 The current access off the A85 into the site will be upgraded and details of the proposed works, which includes revisions to the A85 between the site and the A9 junction and beyond, are set out in the previous applications Transport Assessment. Cycle racks are to be incorporated and located adjacent to the side of the Sainsbury's Store.

### **Environmental Impact Assessment (EIA)**

- 15 Directive 2011/92/EU requires the 'competent authority' (and in this case Perth and Kinross Council) when giving a planning consent for particular large scale project to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 16 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 17 An Environmental Statement was submitted and assessed as part of the 09/02126/FLM application. As this is a renewal of a major application Regulation 11 of the Scottish Government's Development Management Procedures 2013 just requires the submission of a Pre-Application Consultation (PAC) Report along with the Land Certificate and required application fee. An EIA is therefore not required to be submitted as the environmental impact of the proposal has already been assessed.

## **PRE-APPLICATION CONSULTATION**

- 18 The proposed development is classed as a Major development under class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The regulations require the renewal of major planning application to have carried out pre-application consultation with the local community prior to submission of the renewal.
- 19 A Proposal of Application Notice (PAN) (16/00002/PAN) was submitted to the Council and approved in March 2016. A public exhibition was held locally on 9<sup>th</sup> March 2016. The ward Councillors and Methven Community Council were invited. The results of the community consultation have been submitted with the renewal application as part of the required Pre-Application Consultation (PAC) Report.

## **NATIONAL POLICY AND GUIDANCE**

- 20 The Scottish Government expresses its planning policies through the National Planning Framework (NPF) 3, the National Roads Development Guide 2014, Scottish Planning Policy (SPP) 2014 and Planning Advice Notes (PAN).

### **National Planning Framework**

- 21 The 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. Under the Planning etc (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document 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**

- 22 The SPP is a statement of Scottish Government policy on land use planning. 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
- 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
- Annex A – Town Centre Health Check and Strategies
- Annex B – Parking Policies and Standards

- 23 The following Scottish Government Planning Advice Notes (PAN are likely to be of relevance to the proposal,

- PAN 3/2010 Community Engagement
- PAN 1/2011 Planning and Noise
- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 59 Improving Town Centres
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 75 Planning for Transport

## **LOCAL POLICY AND GUIDANCE**

### **TAYPlan Strategic Development Plan 2012-2032**

- 24 TAYPlan sets out a vision for how the region will be in 2032 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 2032 the TAYplan region 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”*

- 25 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

#### **Policy 1 – Location Priorities**

- 26 Seeks to focus the majority of development in the region’s principal settlements. Perth Core Area is identified as a Tier 1 Settlement with the potential to accommodate the majority of the region’s additional development over the plan period and make a major contribution to the region’s economy.

#### **Policy 2 – Shaping better quality places**

- 27 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

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

- 28 Planning decisions should be justified combining the retail hierarchy contained in TAYplan and the sequential approach in Scottish Planning Policy (SPP).

## **Perth and Kinross Local Development Plan 2014**

29 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.

30 The LDP 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.”*

31 Under the LDP, the following policies are of particular importance in the assessment of this application.

### **Policy PM1A - Placemaking**

32 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

### **Policy PM1B - Placemaking**

33 All proposals should meet all eight of the placemaking criteria.

### **Policy PM2 - Design Statements**

34 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

### **Policy PM3 – Infrastructure Contributions**

35 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

### **Policy PM4 - Settlement Boundaries**

36 For settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary

### **Policy RC1 - Town and Neighbourhood Centres**

37 Class 1 (retail) uses will be supported in identified town and neighbourhood centres commensurate with the role of the centre within the established retail hierarchy. Use Classes 2 & 3, leisure, entertainment, recreation, cultural and community facilities

will also be encouraged in ground floor units provided they contribute to the character, vitality and viability of the retail core and satisfy the criteria set out. Use of pavement areas for restaurant/cafes/bars is acceptable in the prime retail area. Housing and other complementary uses are encouraged on the upper floors.

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

- 38 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.

#### **Policy TA1A - Transport Standards and Accessibility Requirements**

- 39 Encouragement will be given to the retention and improvement of transport infrastructure identified in the Plan.

#### **Policy TA1B - Transport Standards and Accessibility Requirements**

- 40 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

#### **Policy HE1B - Scheduled Monuments and Non Designated Archaeology**

- 41 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

#### **Policy HE2 - Listed Buildings**

- 42 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

#### **NE3 – Biodiversity**

- 43 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

#### **Policy EP1 - Climate Change, Carbon Reduction and Sustainable Construction**

- 44 Sustainable design and construction will be integral to new development within Perth and Kinross. Proposals for new buildings must be capable of meeting one of the standards set out in the table.

### **Policy EP2 - New Development and Flooding**

- 45 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

### **Policy EP3B - Water, Environment and Drainage**

- 46 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

### **Policy EP3C - Water, Environment and Drainage**

- 47 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **Policy EP8 - Noise Pollution**

- 48 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

### **Policy EP11 - Air Quality Management Areas**

- 49 Development proposals within or adjacent to designated Air Quality Management Areas which would adversely affect air quality may not be permitted.

### **Policy EP12 - Contaminated Land**

- 50 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

## **OTHER POLICIES**

- 51 The following supplementary guidance and documents are of particular importance in the assessment of this application
- The Perth and Kinross Retail Study and Town Centres Review 2014
  - Developer Contributions Supplementary Guidance April 2016

- Flood Risk and Flood Risk Assessments – Developer Guidance June 2014
- Sustainable Design and Zero Carbon Development Supplementary Guidance May 2014
- Perth and Kinross Council Corporate Plan 2013-2018
- Perth and Kinross Community Plan 2013/2023

## SITE HISTORY

- 52 There have been a series of applications relating to this site over the years. These include:
- 53 **00/01747/OUT:** Relocation of existing car auction mart and erection of health and fitness centre, hotel with restaurant facilities and class 4 business premises. Application withdrawn December 2004.
- 54 **08/01513/IPM:** In Principle Permission sought for a Mixed Use Development. Application appealed due to non-determination but withdrawn by the applicant in October 2010 prior to determination by Directorate of Planning and Environmental Appeals (DPEA).
- 55 **09/02126/FLM:** Detailed planning permission for erection of Class 1 retail superstore and petrol filling station with associated landscaping and engineering works. Application approved by the Development Management Committee 19 April 2013 and remained live until 19 April 2016.
- 56 **12/00392/FLL:** Detailed planning permission for the erection of a petrol filling station (PFS). Approved under delegated powers April 2013
- 57 **13/01795/MPO:** Modification of Planning Obligation associated with 09/02126/FLM to amend Clause 1.1, 2.1 and 3.1 and delete Clause 6. Application approved by the Development Management Committee November 2013
- 58 **16/00002/PAN** Proposal of Application Notice for renewal of 09/02126/FLM for erection of Class 1 of retail superstore and petrol filling station. Content of PAN approved February 2016.
- 59 **16/00004/PAN** Proposal of Application Notice for residential development. Content of PAN approved June 2016.
- 60 **16/00695/FLL** Renewal of 12/00392/FLL for erection of petrol filling station. Currently under consideration.
- 61 **16/01348/IPM** In Principle application for residential development. Submitted August 2016 and currently under consideration.

## **CONSULTATIONS**

### **EXTERNAL**

#### **Scottish Environment Protection Agency (SEPA)**

62 No objection to the proposal.

#### **Scottish Water**

63 No response to the proposal. Previously had no objection.

#### **Transport Scotland**

64 No response to the proposal. Previously recommended conditions be attached to any permission relating to gross floorspace, provision of a travel plan, proposals for new and/or extended bus services and their associated introduction, off-site improvements to the trunk road network incorporating appropriate traffic signalisation, with the improvements being completed prior to the occupation of the store, and that details of all lighting and advertisement features within the site be provided for further approval.

#### **Perth & Kinross Heritage Trust**

65 The area outlined for the development contains an area of known archaeological sensitivity and is considered to have archaeological potential. Cropmarks likely to represent archaeological remains have been identified through aerial survey in the northern sector of the site and adjacent to it, to the west. The site lies to the south east of Huntingtower, an area of extensive archaeological remains and historic significance, including Scheduled Ancient Monument (SAM 3630) and Huntingtower Castle. It is recommended that a condition for an archaeological programme of works be attached to any permission if granted to identify any archaeological remains and, if appropriate, to ensure that the impact of the development is mitigated through preservation in situ or by record.

### **INTERNAL**

#### **Policy and Strategy**

66 Since the approval of the 09/02126/FLM application, the LDP 2014 has been approved. Perth and Kinross Council's policy approach has not changed considerably with regard to retail proposals, however in the Scottish Planning Policy (2014) update there is an increased emphasis on the town centre first principle. It is therefore considered that this proposal does not accord with the Development Plan retail policy. The proposal is considered weak in terms of active travel connections, as a safe pedestrian connection across the A9 at the Newhouse Farm area is not provided for, and there are core paths to the west and south of the site which are not linked up with. This planning application is therefore also considered to be contrary to Perth and Kinross Council LDP policies PM1A placemaking, and TA1B Transport Standards and Accessibility Requirements.

- 67 It is considered that this proposal is contrary to Policy RC4: Retail and Commercial Leisure Proposals, and is not compatible with the SPP 2014 town centre first approach, even without the benefit of an up to date Retail Impact Assessment or appropriate sequential assessment. The scale of retail proposed on this site is significant and it lies outwith the town centre, edge of town centre, or commercial centre locations which would all be sequentially preferable to this site.
- 68 The Perth & Kinross Retail study and City & Town Centre Review 2014 it gives an update on spare retail capacity and this indicates that there is not sufficient convenience capacity for this proposal. The proposal exceeds the potential capacity of up to 1,600 squares metres of convenience floorspace. This 2014 study will be reviewed shortly and will likely indicate there is some additional capacity however even if this shows sufficient capacity for this proposal, any proposal would still need to meet the sequential approach and still need to be shown that it would not threaten existing centres (especially the city centre).

### **Community Greenspace**

- 69 No response received. Previously had concerns relating to the lack of current provision of a separate crossing over the A9 for pedestrians and cyclists are raised. An existing Right of Way (RoW) and core path runs along the western perimeter of the site. A condition requiring the footpath route to be maintained and/or repaired if necessary should be attached to any permission.

### **Transport Planning**

- 70 No objection to the proposal provided previous conditions are applied to this application.

### **Environmental Health**

- 71 The original application was supported by air quality and noise assessments due to the potential impacts to local residents arising from this development. However these assessments are now out of date.
- 72 This is particularly important for the air quality assessment, as since this application was approved, there have been several other planning applications in the vicinity. Of particular note are applications 15/0112/IPM and 15/01157/IPM for housing developments at Bertha Park and Huntingtower respectively. These applications include a total of over 4,000 houses and whilst the air quality was assessed cumulatively for each of these applications, this superstore development was not part of that cumulative assessment.
- 73 The previous aforementioned air quality assessment submitted as part of 09/02126/FLM did not consider any cumulative effects to air quality here; therefore no assessment has considered the cumulative effects of all 3 developments. Given this proposal contains provision for over 700 parking spaces, it is important that the air quality impacts be reassessed and updated to take account of the up to date situation here.

### **Noise**

- 74 It is acknowledged that there is always the potential for noise from a development of this scale due to plant noise, traffic noise and delivery noise etc. The noise assessment which was included as part of the previous applications EIA did show there could be an issue with sleep disturbance due to night time deliveries therefore recommend that an acoustic barrier be installed along the service yard.

#### Odour

- 75 This store is proposing to have an in store bakery, therefore recommend a condition below controlling the escape of odours from this.

#### Lighting

- 76 A condition requiring the appropriate orientation of external lighting so as not to permit direct illumination of neighbouring land and that light spillage beyond the site boundaries is minimised is recommended.

#### Air Quality

- 77 In the previous application it was stated that if the applicant can mitigate air quality impacts so they will essentially be so small as to be imperceptible or show through their own monitoring that there is no risk of the AQMA being extended there is unlikely to be an air quality issue at this location.

#### **Developer Contributions**

- 78 09/02126/FLM was approved prior to the adoption of the Transport Infrastructure Supplementary Guidance in 2014. Through determining the 09/02126/FLM consent it was identified that the development would have an impact on the local road network and as such a financial contribution of £2.18m would be required through a Section 75 Planning Obligation.
- 79 In terms of the Developer Contributions and Affordable Housing Guidance 2016 paragraph 3.6 states *'Where applications are submitted for the renewal of planning consent the Guidance will be applied in accordance with Appendix 5.'* In line with Appendix 5 this proposal is being renewed for the first time, as such the Guidance will not apply.
- 80 The requirements of the S.75 Planning Obligation in relation to the 09/02126/FLM consent should also be applied to any renewal of consent.

#### **REPRESENTATIONS**

- 81 One letter of representation has been received objecting to the proposal and the letter raises the following relevant issues:
- No need for out of centre retail provision
  - Adverse impact on city centre
  - Adverse traffic impact

- Adverse noise impact
- Adverse air quality impact

82 The Appraisal section of this report responds to the material planning concerns raised.

## ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	N/A
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

### Policy Appraisal

- 83 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy and Supplementary Guidance or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are listed in the policy section above.
- 84 Consideration requires to be given as to whether the proposed development accords with both National Policy and Development Plan policies, in particular whether retail capacity exists to accommodate the proposal without a significant adverse impact on Perth City Centre, whether the proposals are acceptable in terms of zoning, scale, design, siting and landscape terms, whether satisfactory access, parking, servicing and related infrastructure can be achieved. If the proposal fails to meet with policy requirements, careful consideration has to be given to whether there is a satisfactory argument in terms of overriding public interest which justifies the setting aside of the Development Plan.
- 85 The site is not allocated for a particular use in the LDP but is within the settlement boundary of Perth and is classed as an urban brownfield site due to its previous use and current condition. As a result of its status in the LDP the general principle of development for a variety of uses is considered acceptable.
- 86 The planning history of the site shows a mix of uses. The site was originally developed as an agricultural livestock mart. There were a number of ancillary uses which developed alongside including cafes, banking facilities and numerous retail units aimed more at the general public. This meant that the site became a

destination for the public for purposes and at times other than directly linked with the livestock sales operation.

- 87 On the wider Huntingtower Park site there is a restaurant/public house, a Travelodge Hotel and a Dobbies garden centre. The garden centre incorporates a significantly sized café and retail areas for books, clothes, gifts and food. The character of the site, which has been established over the past twenty years, is therefore one of a mix of uses incorporating business, retail and tourism.
- 88 The majority of the application site is now cleared and sitting empty. This derelict state is detracting from the remaining businesses in the immediate area, potentially to their detriment. The current proposal would re-use this brownfield land.
- 89 LDP Policy PM1 requires that all development must contribute positively to the quality of the surrounding built and natural environment. In my view, there is scope to justify a departure from the Development Plan for the principle of development on this site given the brownfield nature of the site, the existing and historic mix of uses on the site and the potential for environmental betterment.

## **Retail Impact**

### Policy

- 90 In accordance with Scottish Planning Policy (SPP) 2014, the aim of the Development Plan is to direct new retail investment towards existing town centres as this offers the best opportunity to provide for the whole community as well as offering the potential to reduce car journeys. It is accepted in SPP 2014 that town centre locations are not always possible and recommends that the sequential approach should be applied which defines a range from 'town centre' to 'out of centre' and that reasonableness and flexibility should be exercised by all parties in the selection process.
- 91 TAYplan Policy 7 – Town Centres echoes this. Whilst the sequential test does not prohibit new retail developments outwith town centres, there remains a requirement for new developments to be accessible by a range of transport modes, especially public transport, walking and cycling. If the new site can be accessed and linked with the existing town centre, there would be a greater possibility of linked shopping trips and more mutual trade and footfall between the site and the town centre. The site is very much classed as 'out of centre' owing to its location on the western edge of the city.
- 92 The LDP does not allocate it for any use other than showing it as within the settlement boundary. A Retail Impact Assessment was submitted with the previous application which included three main elements:
- A qualitative assessment (i.e Town Centre Health Check) to define the relative health of the town centre and as such its ability to absorb impacts
  - A quantitative assessment of available expenditure and likely expenditure patterns pre and post development
  - A sequential site assessment to determine whether the subject site is appropriate

- 93 The proposal will now be assessed against current retail policy and the Perth and Kinross Retail Study and Town Centres Review 2014.

### Scale

- 94 There is concern regarding the scale (9,533 sqm gross internal and 6,038 sqm net sales area) of the proposed supermarket especially in relation to the sequential assessment and the quantitative assessment. With specific regard to the quantitative assessment, there is very little capacity for the size of the supermarket proposed.

	<b>Sqm</b>
Net Sales	6,038
<i>Convenience Sales</i>	<i>3,716</i>
<i>Comparison Sales</i>	<i>2,322</i>
Customer Café	320
Entrance Lobby	83
Staff Facilities	450
Backup/Storage	2,158
Cash tills/Circulation	484
<b>Total</b>	<b>9,533sqm</b>

### Convenience Goods

- 95 The recent Retail and Town Centres Review in 2014 by Roderick Maclean Associates on behalf of Perth & Kinross Council indicates that there is at best £179 million of available convenience expenditure in 2019. This equates to 1,600sqm of floorspace. This indicates there is little convenience capacity of the scale of the proposed superstore. However the Retail Study admits that Perth could accommodate a larger format foodstore with some trade diversion from existing stores. This indicates that while there is some concern especially if there is no capacity available for the convenience goods element of 3,716sqm (62%), it could potentially be accommodated from a quantitative perspective.
- 96 The level of convenience food retail units within the city centre is reasonably low (6%) and any impact from the proposed stores large convenience goods section (3,716sqm) will therefore be reasonably limited.

### Comparison Goods

- 97 There is also concern regarding the scale of the store's comparison offer and its potential impact on Perth City Centre. The comparison shopping element of the proposed store of 2,322sqm (38%) is considered too high and could result in a significant adverse impact on the existing comparison retailers within Perth City Centre.
- 98 If permission were to be granted for the store it is considered that a comparison goods element of 30%-35% would be more acceptable given the size of the store which will be the largest within Perth. This can be covered by way of a planning condition which includes the percentage and a maximum floorspace allowance in the event that the store expands in the future.

- 99 In addition there should also be a condition preventing any internal comparison units such as opticians, pharmacy, travel agents etc. from trading as such units are traditionally found in town centres and it is considered that they could have an adverse impact on the city centre.

### **Sequential Assessment**

- 100 SPP 2014 sets out the Government's aspirations for town centres in relation to retailing and emphasises the need for Development Plan policies to better reflect local circumstances. It goes on to state that the sequential approach requires flexibility and realism from Planning Authorities, developers, owners and occupiers to ensure that different types of retail and commercial uses are developed in the most appropriate location. Both TAYplan Policy 7 and LDP Policy RC4 requires that a sequential approach is demonstrated for non-town centre or edge of centre retail sites.
- 101 The sequential approach in SPP 2014, TAYplan and the LDP requires locations for retail development to be considered in the following order:
1. town centre,
  2. edge of town centre,
  3. other commercial centres identified in the Development Plan,
  4. out of centre locations that are or can be made easily accessible by a choice of transport modes.
- 102 The application site is considered to be an out of centre site.
- 103 In terms of the sequential assessment there are a number of sites which have been assessed. There continues to be a number of vacant units within St. Catherine's Retail Park. These vacant sites are located within an edge of centre retail park and because of their proximity to the city centre are better placed to encourage linked trips and are more accessible by all modes of transport in comparison to the proposed site.
- 104 The surface car park at Thimble Row is a city centre site on the edge of the prime retail area. It has also been allocated in the LDP as an opportunity site with retail use at ground floor level.
- 105 Whilst both of the above sites could accommodate a large percentage of the proposed store, recent case law (Tesco v Dundee City Council 2012) indicates it is unreasonable to expect a proposal to now have to subdivide.
- 106 The application site is only readily accessible to the car and is currently not easily accessible to sustainable modes of transport of public transport, walking and cycling. There are four bus services which pass the application site with just two scheduled to stop near the proposed development. The services at the weekend and in the evenings are particularly poor and this is when the store is likely to be at its busiest.
- 107 From a qualitative perspective it is considered that west/north west Perth is currently adequately served by the Asda at Dunkeld Road, Tesco Extra on Crieff Road and Marks and Spencers and Aldi at Highland Gateway. Whilst the population of Perth is

predicted to increase over the next 20 years and it is the west/north west of the city that is expected to expand, it will be some time before a significant population will be present in west/north west Perth.

- 108 It is accepted that no comparison should be made with other out of centre sites within Perth in terms of the sequential assessment. However, SPP 2014 does state that comparison with out of centre sites supported by the Development Plan can be made. The LDP does not allocate the site in question for retail use and it could be some time before the surrounding area sees any significant levels of development.
- 109 The important issue is the fact that while there is limited quantitative capacity available within Perth for the scale of store proposed it does acknowledge that a large format store could potentially be accommodated with some trade diversion from existing foodstores. The 2014 Retail Update identifies that in 2019 and 2024 there will be some spare capacity.
- 110 Having taken all the above into consideration and based on the 2014 Retail Study it is considered that there is slightly more capacity than before for a store of the proposed scale and because there is no site available in Perth City Centre or in an edge of centre location then the sequential assessment is now met.

### **Quantitative Assessment**

- 111 An understanding of the current quantitative retail factors within an area allows an understanding of the retail requirements of an area and the effect of bringing forward new retail development. The Retail Impact Assessment submitted with the previous application contained a model that set about understanding the current available expenditure within an identified catchment (demand) and assessing this against the turnover of existing/consented provision (supply).
- 112 The previous RIA stated that there is considered to be a Total Available Expenditure of some £201.95 million for convenience goods and £552.15 million for comparison goods at 2014. Based on the Retail Study 2014 total available expenditure in Perth in 2019 is predicted to be £179 million and based upon average turnover levels of the existing retail units in Perth suggests that there is a surplus of £6 million on convenience goods and £97.47 million capacity for comparison goods in 2019. The 2014 Retail Review prepared by Roderick Maclean Associates on behalf of Perth & Kinross Council is more up to date than the previous RIA (2009) and it shows that within Perth and Kinross there is £313 million available for convenience goods and £493 million for comparison goods at 2019.

### **Convenience Goods Capacity**

- 113 On the basis of the capacity information contained within the Retail Study there is some quantitative need justified for convenience goods and there is capacity for additional comparison goods. LDP Policy RC4 states there must be sufficient capacity in expenditure terms to accommodate the retail proposal and that it does not have an adverse impact on the city centre.
- 114 The 2014 Retail Review shows that that at 2019 there is now some convenience capacity in Perth with £179 million available expenditure amongst the resident

population but the existing stores in Perth have an average turnover £173 million leaving a small capacity surplus of £6 million.

### Comparison Goods Capacity

- 115 In terms of capacity for comparison goods in Perth the 2014 Retail Study shows there is capacity of £44.8 million at 2019 within Perth itself and £53.6 million in Perth & Kinross. Whilst the comparison goods capacity figure indicates that there are opportunities for further development there are still concerns that the comparison goods element of the proposal of 2,322sqm will have an adverse impact on Perth City Centre which is currently struggling following a recent increase of comparison good unit closures. It is considered that the scale of the proposed comparison goods floorspace in the proposed location could result in further city centre closures, though as mentioned previously, this could be restricted by condition.

### **Qualitative Assessment**

- 116 A health check is a recognised monitoring tool to measure the strengths and weaknesses of a town centre and to analyse factors which contribute to its vitality and viability. Vitality is a measure of how lively and busy a town centre is and viability is a measure of capacity to attract on going investment, for maintenance, improvements and adaption to changing needs.
- 117 Perth is the main urban area within Perth and Kinross and has a strong focus on the tourist industry. It plays a vital social and economic role in providing services for Perth and the surrounding region. There is a range in the quality and convenience of services, especially independent retailers that are attractive to local residents, tourists and investors.
- 118 The previous RIA assessed the proposal against the Town Centre Health Check, and it scored relatively highly at 3.7 out of 5 and that Perth has a reasonably healthy town centre and robust enough to accommodate the impact of the proposed new store. Based on the 2014 Retail Study and Town Centres Review, it is considered that the score today would be a bit lower due to the number of comparison goods shops that have closed in the city centre in recent years.
- 119 The impact on convenience provision in Perth is predicted to be small but this is based mainly on the fact that convenience representation within the city centre is relatively low at just 6%. The previous RIA, did not fully assess the impact of the proposal on city centre comparison outlets other than saying they *“are not predicting any adverse comparison impacts arising”*.
- 120 The RIA concluded that a new superstore will further improve the convenience and comparison goods on offer within Perth, will provide appropriate competition and will enhance local consumer choice.
- 121 Whilst the above may be true, in terms of qualitative impact the site does contain several weaknesses. The site is not currently easily accessible to non-car modes of transport and the current bus service past the site is relatively infrequent especially at evening time or at weekends when the store would be at it’s busiest. Because of its distance from the city centre beyond the A9 there will be limited scope for linked trips

with people carrying out their convenience shopping at the supermarket and heading home rather than using the town centre for other retail and service needs which would help claw back any lost expenditure.

- 122 It is recognised that the additional competition may lead to some of the existing stores improving their offer. However, the qualitative justification other than increased competition and consumer choice struggles to outweigh any expenditure capacity issues for convenience goods and the potential impact the proposed store could have on the existing comparison retailers in Perth City Centre.
- 123 In summary, the impact on Perth city centre will still be somewhat marginal given the trading position of the city centre and the predominance of the non-food retail offer. It further states the greatest impacts will be realised within the existing large food stores set around Perth but not so much that this would undermine their ability to trade.

### Conclusion

- 124 Based on the information provided in the 2014 Retail Study it seems a number of matters are clear regarding the proposal.
- There is now some quantitative capacity for a new large foodstore within Perth;
  - Improving customer choice, adding competition and added investment in Perth's retail offer will provide some qualitative benefits. However the qualitative reasons put forward for the proposed store are marginal;
  - Following recent case law (Tesco v Dundee City Council 2012) it is now considered that the sequential assessment is acceptable as there are no sites available in Perth City Centre or in an edge of centre location that could accommodate the scale of the proposal;
  - The proposed store is currently considered to be in a poorly accessible location and poorly related to existing residential areas within Perth, although the proposed expansion of north/west Perth over the next 30 years will help improve its relationship.
- 125 On the basis of the above, there is now some retail planning policy support for the proposed superstore. Should permission be granted it is considered necessary that there should be a condition restricting the comparison goods element of the sales floor. It is recommended that 30%-35% would be more than acceptable. A maximum comparison floorspace allowance should also be stipulated in the event that the store expands in the future. There should also be a condition preventing internal comparison units such as opticians, pharmacy, travel agents etc., from trading as they could have an adverse impact on the city centre.

### **Road Network Capacity/Traffic Impact**

#### Background

- 126 The biggest single constraint facing the Perth Area is the capacity of the roads infrastructure in and around Perth. Of the future land supply identified through the LDP for the Perth Housing Market Area only 30% can be delivered without significant

improvements to the transport network. Not only is congestion becoming an ever increasing problem but the increased pollution levels evident in several areas of the City have required the Council to identify Perth as an Air Quality Management Area. This deterioration in air quality is caused in part by standing traffic which is particularly evident around the A9/A85 junction at present.

- 127 To help alleviate these issues planning permission has now been granted for a new A9/A85 junction as part of the proposed Cross Tay Link Road (CTLR) project. The A9/A85 works are due to commence this autumn and should help alleviate a number of issues relating to congestion and air quality.
- 128 The strategy of the TAYplan focuses the majority of growth on Perth City and its Core area building upon its key role as the hub of the area. The Plan concentrates on the delivery of strategic sites to the north-west and north of Perth as the main driver to achieving sustainable economic growth providing the prime source of future employment and housing land during and beyond the Plan period. The delivery of the A9/A85 junction improvement is a key component in achieving the aims of the LDP.

#### Transport Assessment

- 129 LDP Policy TA1 requires local road networks be capable of absorbing the additional traffic generated by the development and that a satisfactory access to the network is to be provided. The required standard is the impact that any development has on the operation of the associated road network should result in 'no net detriment'.
- 130 SPP 2014 emphasises the importance of locating development in places well served by public transport and a wide choice of transport modes, including on foot and by cycle.
- 131 A Transport Assessment (TA) was submitted with the previous planning application. The TA was thoroughly audited by both by the Transport Planning team and by the Council's Term Traffic Consultants using S-Paramics Traffic Modelling software.
- 132 The Council's Transport Planners have been consulted on the renewal of the application and offer no objection to the proposal provided the same conditions are carried forward from the 09/02126/FLM. It is considered that, subject to the on-line road improvements and a financial contribution required by an existing S75 legal agreement to the construction of the new A9/A85 junction, the development is in compliance with LDP Policy TA1 in regard to transport and road safety issues.

#### Trunk Road Network

- 133 Transport Scotland have been consulted on the proposal. Whilst no response has been received Transport Scotland, they previously offered no objection to the proposal subject to conditions requiring the submission of a comprehensive Travel Plan.

## Conclusion

- 134 The overall proposed package of transport network improvements, including the new junction, will help solve the standing traffic issue which is particularly evident in the area around Crieff Road while the upgraded A9/A85 junction is a key component and immediate requirement to support short term growth.

## **Public Transport**

- 135 The application site is at present accessible to the car but is not easily accessible to sustainable modes of transport of public transport, walking and cycling. It is not currently accessible by public transport with four services passing the site with two scheduled to stop near the proposed development. Existing services are poor in the evening and weekends – a time when the proposed store is likely to be at its busiest.
- 136 It is considered that a Travel Plan Framework will need to be submitted with a view to minimising private single occupancy car usage whilst encouraging the use of public transport, car sharing, cycling and walking amongst staff with some measure being equally applicable to customers. An improved and extended bus service, as previously recommended by Transport Scotland, could be reasonably required by condition, if permission were to be granted. The proposed Travel Plan would be considered in detail by Transport Scotland and the Council's Transport Planning and Public Transport sections prior to it being agreed. This could ensure a satisfactory package of appropriate measures would be put in place prior to the opening of the proposed store.

## **Footpaths/Cycle Access**

- 137 The previous application's TA identifies the designated cycle route NCR 77 as running to the north of the site and through Almondbank. This route then links in with local cycle routes into the city centre. An existing Right of Way (RoW) and core path runs along the western side of the application site, but outwith, the site. This route links in with routes in the wider area. None however are developed specifically as cycle routes.
- 138 It is acknowledged within the TA that pedestrian and cycle links to the site are currently limited. There are, however, some pedestrian and cycle improvements are outlined in the TA and include:
- 2m wide footways along both sides of the site access road, linking in with internal walkways
  - A pedestrian and cycle entrance along the western boundary linking in with the Right of Way
  - The footway along the south side of the A85 will be improved to provide a continuous link to the east of the A9 overbridge.
  - Installation of traffic lights will allow pedestrians to safely cross the A9 slip road
  - Signalised pedestrian facilities will be provided around the junction of A85 with the A9( southbound ramp which is to be changed from a roundabout to signalised junction

- Appropriate cycle parking provision will be made within the site

139 Whilst concerns relating to the lack of current provision of a separate crossing over the A9 for pedestrians and cyclists have been raised, there is no proposal for a dedicated pedestrian and cycle crossing over the A9 but some accommodation is made via the above noted mitigations.

140 As the Right of Way along the western boundary of the application site lies outwith the identified planning application site, it is not under the control of the applicant. To that end it would not be reasonable to condition any approval to require works to or the maintenance of the existing footpath.

### **Air Quality**

141 Due to the lack of up to date air quality modelling any application which considerably increases traffic at this location will push PM<sub>10</sub> levels up, the potential for degradation of air quality here is a material consideration in this application. Further work is required by the applicant to show whether or not the increase in PM<sub>10</sub> would be imperceptible. The proposed new interchange for the A9/A85 may make a difference to levels here as may the “other transport mitigation measures” which are proposed and these should be incorporated into a revised model.

### **Residential Amenity**

142 There are residential properties within close proximity to the application site located opposite the existing junction of the access with the A85, to the north of the site (approx 170m from site), to the north. LDP Policy PM1 seeks to ensure new development does not result in an unacceptable environmental impact.

### External Lighting

143 Due to the distance between the site and local receptors, and taking into account intervening structures and land uses, there is not likely to be any significant impact from proposed external illumination. All external lights within the development site, both on the building and within the car park can be sufficiently aligned to ensure the prevention of nuisance and to meet the design target that glare to local residents will be totally prevented. This aspect can be suitably controlled by a condition on any permission granted.

### Construction Phase

144 In terms of potential impacts during the construction phase (including noise, vibration and management of construction traffic), Environmental Health has sufficient statutory powers to address such issues if any permission is granted.

### Odours from Food Preparation

- 145 The escape of odour from cooking can be suitably controlled by providing a suitable ventilation system for cooking and this can be controlled by a condition on any permission granted.

### Noise

- 146 Noise from plant and equipment can again be suitably controlled by use of a condition on any permission granted to protect neighbouring residential amenity.

### Deliveries/Loading and Unloading Activities

- 147 If permission were to be granted, it would be reasonable to control the operating hours by condition.
- 148 The proposed service yard is to be located to the east of the site approximately 125m across the A9 from Errochty Grove and over 200m from the houses at East Huntingtower. It is accepted that there are potential noise issues associated with vehicle noise and loading/unloading activities. However given the previous use of the site, the location of the proposed servicing yard, the distance to the nearest residential properties, the intervening buildings and the busy trunk roads which bound the site to the north and east, it is extremely unlikely that any disturbance to residential amenity would be discernible let alone significant.

### Audible Reversing Alarms

- 149 Given the use of audible reversing alarms is connected with nearby commercial premises it would be unreasonable to prevent their use in connection with the proposed development.

### Servicing of Recycling Facilities

- 150 The plans indicate that the proposed supermarket will have a collection point for recyclable materials. There is potential for nuisance to be created due to noise generated during the uplift of glass bottles, and the nature of this noise can result in annoyance to nearby residents. A condition would therefore be recommended to restrict the hours of servicing to the recycling facilities if consent were to be given.
- 151 In conclusion, and having considered the above, there will be no significant detrimental loss of amenity to nearby residential properties.

### **Design and Layout**

- 152 The application site sits within the immediate context of recently constructed buildings which use a simple palette of materials which have traditional characteristics. The site sits a considerable distance from the Category A Listed Huntingtower Castle and due to the physical separation between the two there is

unlikely to be any adverse impact. The relatively simple, modern design proposed here is considered to be acceptable in principle given the context of the site.

- 153 The store is shown to be located at the eastern extent of the site, with the car park extending to the west. The development sits at a higher level than the access road on the terrace formed as part of the previous development of the site. The proposed store is very similar in overall height (approximately 9 metres) to the height of the mart building previously on the site, though the massing will be increased. The design and variety of materials proposed, along with elevational treatments will work to reduce the overall perceived massing of the building. This and the increased depth of the landscaping area to the north of the store will help to minimise any visual impact and will ensure the development fits the site.
- 154 The wall cladding is to be a white composite panelling with a buff coloured masonry basecourse. The roofing material is to be a “goosewing grey” panelling. Elements of sandstone ashlar on the main elevations are proposed to visually break the massing. The projecting canopy detail will also help this.
- 155 The design which is proposed is still considered to be appropriate in the context of the area. The materials on the public elevations of the building help to integrate the building more successfully with its surroundings. The exact details of colour and type of finishing materials can be requested by a condition on any permission given. I do not consider the proposed store would have any significantly detrimental impact on the visual amenity of the area.

### **Landscaping and Trees**

- 156 LDP Policy ER6 seeks to ensure development proposals have a good landscape framework within which the development can be set and, if necessary, can be screened. The site benefits from established perimeter planting inherited from the earlier development of the site. Within the site there is little established landscaping that will be affected. The planting which is located at the boundaries of the site is set to be retained.
- 157 The most significant change to the existing situation will be the formation of a stone faced retaining wall at the south of the existing roundabout within the site. The proposed wall is shown to be some 3.7m high at the centre, reducing in height to the east and west due to road levels. A landscaping area of between 20m and over 30m is to be incorporated to the south of the retaining wall and to the north of the store and car park area. Although details have not been submitted at this stage, it is appropriate to require further information by condition, should permission be granted. The potential exists for this area of landscaping to effectively filter views of the store and car parking giving only partial views of the store from the A85. This would ensure the visual amenity of the area is protected and enhanced.

### **Impact on Listed Buildings and Scheduled Monuments**

- 158 The site is over 350m from Huntingtower Castle which is Listed category A. Due to the distance between the sites, the topographical changes and the existing buildings,

it is accepted that there will be no detrimental impact on the Listed building or its setting.

- 159 There are four Scheduled Monuments in the vicinity of the application site. The previous ES contained an assessment of the potential impacts on these sites and concluded that there would be no significant impacts on any of the sites. Historic Environment Scotland concur with this assessment and raise no concerns.

### **Archaeology**

- 160 LDP Policy HE2 seeks to protect unscheduled sites of archaeological significance and their settings and where it is likely that archaeological remains exist the developer will be required to arrange for an archaeological evaluation to be carried out. The previous ES adequately considered the development in terms of the above and recommends that during the construction works an archaeological watching brief be put in place.
- 161 Perth and Kinross Heritage Trust has again advised that the development site contains an area of known archaeological sensitivity and is considered to have archaeological potential. On this basis it is recommended that a condition for an archaeological programme of works be attached to planning permission, should it be granted, to identify any archaeological remains and, if appropriate, to ensure that the impact of the development is mitigated through preservation in situ or by record.

### **Natural Heritage**

- 162 LDP Policy NE3 requires development proposals to avoid detrimental impact on biodiversity and protected species. The previous ES identified that there are no potential bat roost sites and no evidence has been found of any other protected species on site.

### **Drainage**

- 163 LDP Policy EP3 requires all development to have sufficient infrastructure to serve the development. Within a settlement the main aim is to ensure that the public services can accommodate the development. Scottish Water previously advised that they had no objection to the proposal.
- 164 The surface water drainage is required to be controlled by way of a Sustainable Urban Drainage System (SUDS). As no detailed system has been submitted a condition requiring such a system could be required by condition, if permission were forthcoming.

## **OTHER MATERIAL CONSIDERATIONS**

### **Previous Permission (09/020126/FLM)**

- 165 The previous application (09/2126/FLM) is a significant material consideration in the determination of this renewal application. The principle of the use proposed has

already been accepted and much of the detailed design and layout has already been approved. As the renewal application was submitted the same day as and therefore before the previous application expired (19 April 2016), significant weight must be given to the previous decision of approval.

### **Economic Impact**

- 166 There are a number of economic benefits both direct and indirect arising from the proposed development. Direct jobs will be created by the on-going operation of the proposal; shorter term job opportunities arising from the construction phase of the project; and opportunities created for further sales within both current and potentially new local food and drink. The previous application advised that the proposed development would create around 450 direct job opportunities within the new store; approximately 70% of these would be part-time, with the remaining 30% being full-time. They have also indicated that as part of 450 opportunities, around 45 management/team leader positions would be created within the new store.
- 167 The creation of additional employment opportunities is very significant in supporting the sustainable economic growth of the area. While it is recognised that the proposal may lead to an element of displaced jobs from other local supermarkets, the overall net impact is likely to provide a significant boost to local employment.
- 168 In summary, the overall economic impact will be positive for the local area, supporting the creation of additional employment and training opportunities, and providing additional business opportunities for local suppliers.

### **LEGAL AGREEMENTS**

- 169 The Section 75 Agreement associated with 09/02126/FLM remains applicable regarding the requirement to secure the payment of a financial contribution by the applicant towards the construction of the new A85/A9 junction.

### **DIRECTION BY SCOTTISH MINISTERS**

- 170 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**

- 171 The proposal does not fully accord with National Guidance and Development Plan policy in relation to retail development on an out of centre site and may lead to a deterioration in air quality through a possible deterioration of PM<sub>10</sub> levels. The proposal is acceptable in terms of its design, siting and landscape impact. The development can be satisfactorily accessed, with appropriate parking, road

infrastructure improvements and servicing, together with the implementation of the proposed junction improvements to the A85/A9 junction.

- 172 However what is a key material consideration is planning permission 09/02126/FLM as this has established the proposed use and design details as being acceptable. There are other key material considerations in this instance including the potential economic benefit to the local area with the creation of a number of temporary, permanent, full- and part-time jobs.
- 173 The assessment here requires to consider whether the material considerations outweigh the primacy of the Development Plan for over-riding reasons of public interest. My conclusion, in taking into account the policy background, updated retail guidance (including the Councils Retail Study in 2014), the increase of choice for the local consumer, the economic benefits and the wider development strategy for Perth, is that in this particular instance the materials considerations do, on balance, provide a strong enough justification for setting aside certain policy concerns of the development plan. On that basis I recommend approval of the application subject to the conditions noted below.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

1. The proposed development must be carried out in accordance with the approved plans herewith, unless otherwise provided for by conditions imposed on the planning permission.

Reason: To ensure that the development is carried out in accordance with the plans approved.

2. Notwithstanding the details shown on the drawings hereby approved, no permission is granted for the petrol filling station, car wash, landscaping and associated works.

Reason: In order to clarify the terms of the permission.

3. Unless otherwise agreed in writing by the Planning Authority, after consultation with Transport Scotland, the gross floor area of the permitted development shall not exceed 9,533sqm.

Reason: To restrict the scale of the development to that suited to the layout of the access and other junctions, and minimise interference with the safety and free flow of traffic on the trunk road.

4. The net sales floor area of the supermarket shall be made up of a minimum of 65% for the sale of food and a maximum of 35% for the sale of non-food unless otherwise agreed in writing by the Planning Authority.

Reason: To safeguard the vitality and viability of Perth city centre

5. No internal comparison units (e.g. opticians, travel agents, pharmacies, etc) shall be formed within the retail unit hereby approved without the prior written agreement of the Council as planning authority.

Reason: To safeguard the vitality and viability of Perth city centre

6. No development shall take place within the development site as outlined on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the service, shall be submitted to and approved in writing by the planning authority, after satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

Reason: The site lies adjacent to areas of archaeological significance.

7. Prior to the commencement of any development on site a detailed scheme design and specification for modifications to the A85 corridor between the site access junction and the A85/Newhouse Road junction (inclusive), generally in accordance with the 09/02126/46 approval, shall be submitted to and approved by the planning authority, in consultation with the Local Roads Authority and Transport Scotland.

Reason: To ensure that the standard of junction layout complies with current standards and that the safety and free flow of traffic on the trunk road is not diminished.

8. The traffic signals associated with the works indicated in Condition 7 shall incorporate either MOVA control, or other approved means of dynamic control and queue detection (e.g. SCOOT), to the satisfaction of the Planning Authority, in consultation with the Local Roads Authority and Transport Scotland.

Reason: To ensure that the standard of junction layout complies with current standards and that the safety and free flow of traffic on the trunk road is not diminished.

9. Prior to the occupation of any part of the development the modifications to the A85 corridor between the site access junction and the A85/Newhouse Road junction (inclusive) shall be completed in accordance with the approved plans, referred to in Condition 7 above, to the satisfaction of the planning authority, after consultation with Transport Scotland.

Reason: To ensure that the standard of junction layout complies with current standards and that the safety and free flow of traffic on the trunk road is not diminished.

10. Prior to the commencement of any development on site a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the planning authority, in consultation with

the Local Roads Authority and Transport Scotland. The Travel Plan will have particular regard to provision for walking, cycling and public transport access to and within the site and shall identify measures to be implemented; the system of management, monitoring, review and reporting; and the duration of the plan.

Reason: To be consistent with the requirements of Scottish Planning Policy.

11. Prior to the commencement of any development on site proposals for the provision of either new or extended bus services to serve the development, including details of operating hours, frequency of service, route and timescale for introduction, together with evidence of an agreement with a public transport operator to provide this, shall be submitted to and approved in writing by the planning authority in consultation with the Local Roads Authority and Transport Scotland.

Reason: To be consistent with the requirements of Scottish Planning Policy.

12. Concomitant with the occupation of any part of the development hereby approved the agreed bus services referred to in Condition 11 shall be introduced.

Reason: To be consistent with the requirements of Scottish Planning Policy.

13. Prior to the commencement of the development a sample of each of the external finishing materials shall be submitted for the approval of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

14. A detailed landscaping and planting scheme for the site shall be submitted for the further approval of this Planning Authority prior to the commencement of any site works and construction shall not commence prior to the approval of that scheme. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, species, height, size and density of trees and shrubs to be planted. The on-site scheme as subsequently approved shall be carried out and completed within the first available planting season after the completion of the development hereby approved with the off-site planting scheme being completed within the first available planting season after the commencement of works on site; unless otherwise agreed in writing with this Planning Authority and thereafter maintained to the satisfaction of the Planning Authority

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

15. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size and species to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

16. Prior to the occupation or use of the approved development all matters regarding internal access, car parking, cycle parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.

Reason: In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

17. Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices.

Reason: In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

18. All plant and equipment to be installed or operated in connection with the granting of this permission shall be so enclosed, attenuated and/ or maintained such that any noise therefrom shall not exceed International Standards Organisation (ISO) Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/ or calculated and plotted on an ISO rating curve chart, all to the satisfaction of the Planning Authority.

Reason: In the interest of residential amenity.

19. All external lighting to be installed 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 the satisfaction of the Planning Authority.

Reason: In the interest of residential amenity.

20. Hours of operation will be limited to 0700-2300 Mondays to Saturdays and 0800-2000 Sundays but with extended hours of 0600-0000 during December unless otherwise agreed in writing by the Council as planning authority.

Reason: In the interest of residential amenity.

21. Prior to the commencement of the development, full details of an acoustic barrier to be erected around the service yard and capable of reducing noise levels by 5-10 dB shall be submitted for further approval of the planning authority. The barrier should be sufficiently high to obscure direct line of sight between the noise source and the upper floor windows of the houses along Errochty Grove. The acoustic barrier as subsequently agreed shall be installed prior to the store hereby approved being brought into use and the barrier shall be maintained to the satisfaction of the Council as planning authority for the term of the development.

Reason: In the interest of residential amenity.

22. Servicing of the recycling facilities shall be limited to 0800 hours to 1900 hours Monday to Friday and 0900 to 1300 on Saturdays unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of residential amenity.

23. An effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings.

Reason: In the interest of residential amenity.

24. Details of all lighting and advertising features within the site shall be submitted to and approved in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network Management.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road.

## **B JUSTIFICATION**

The proposal is contrary to the Development Plan but there are material considerations to justify a departure there from.

## **C PROCEDURAL NOTES**

The decision notice shall not be issued until the requisite Section 75 agreement is updated, signed and appropriately recorded to reflect the current planning reference 16/00696/FLM. 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 will 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 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure(Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
- 5 Should consent incorporating the archaeological condition be granted, the developer should contact the Area Archaeologist as soon as possible. The procedure for work required can be explained and Terms of Reference prepared.
- 6 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 7 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 8 The applicant is advised he must consult with Transport Scotland, Trunk Road and Bus Operations through its Management Organisation (Transerv, Broxden House, Broxden Business Park, Lamberkine Drive, Perth PH1 1RA) on the terms and conditions, under Roads legislation, that require to be agreed to enable works within the trunk road boundary to be approved.
- 9 All signage proposed on the building shall be subject to a separate application for Display of Advertisement Consent.
- 10 There is evidence of Japanese Knotweed present on the site. This is an invasive species which may require a licence from SEPA for its disposal. Advice should be sought.

Background Papers: 1 letter of representation  
Contact Officer: Steve Callan  
Date: 31 August 2016

**Nick Brian**  
**Development Quality Manager**

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