

**KEY INFORMATION**

**Ward** West End

**Proposal**

Demolition of existing car wash facility, and the erection of a 400m<sup>2</sup> gross convenience retail store, with appropriate servicing area and 10 car parking spaces

**Address**

Car Wash  
East Side of Street  
Annfield Road  
Dundee

**Applicant**

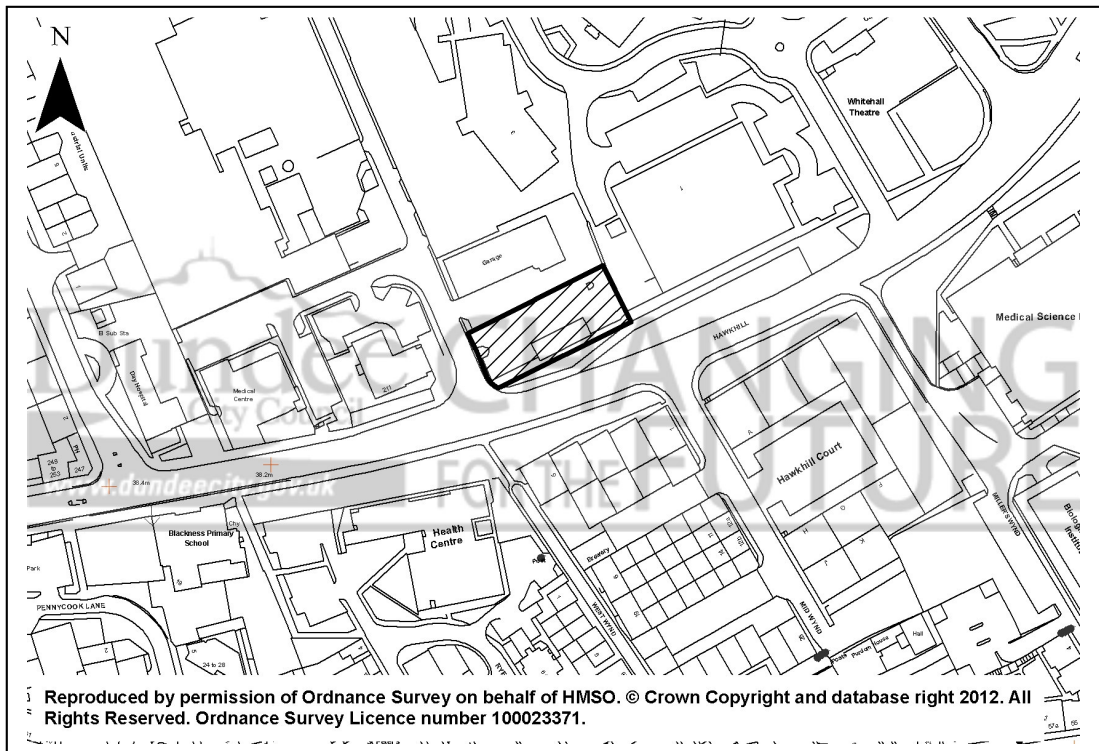
Moark Ltd  
Per Agent  
East Kingsway Business  
Centre  
Mid Craigie Road  
Dundee DD4 7RH

**Agent**

D G Coutts Associates  
East Kingsway Business  
Centre  
Mid Craigie Road  
Dundee DD4 7RH

**Registered** 16 Mar 2012

**Case Officer** Eve Young



# Convenience Retail Store Proposed at Hawkhill

The demolition of existing car wash facility, and the erection of a 400m<sup>2</sup> gross convenience retail store, with appropriate servicing area and 10 car parking spaces is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

**SUMMARY OF REPORT**

- Planning permission is sought for the erection of a 400m<sup>2</sup> (gross) convenience retail store with a service area and parking for 10 cars. The site lies on the north side of Hawkhill on the east side of its junction with Annfield Road. It extends to 1,135m<sup>2</sup> and currently contains a car wash with its service yard. The application is for a retail unit and any permission could not be personal to Sainsbury's or conditional upon their occupation.
- Dundee and Angus Structure Plan 2001-2016 Employment Policy 2 and Dundee Local Plan 2005 - Policy 22: High Amenity Economic Development Areas and Policy 45: Location of New Retail Developments are Relevant. The development does not comply with the relevant policies in the Development Plan.
- The application was the subject of statutory Neighbour Notification and 4 non residential properties were notified. The application was also advertised in the local press. One letter of support and two letters of objection were received within the statutory period.
- The applicant has submitted a Retail Statement and a Planning Supporting Statement to justify the development on the basis that Perth Road lacks a national multiple retailer and considers the development would not adversely affect the District Centre but could attract customers to the area. These conclusions are not agreed.
- This application is referred to the Development Management Committee for determination at the request of an elected Member.
- It is concluded that the material planning considerations weigh against the proposed development and do not support approval of the proposal contrary to the Development Plan.

**RECOMMENDATION**

The proposed development fails to comply with Employment Policy 2 of the Dundee and Angus Structure Plan 2001-2016 and Policies 22 and 45 of the Dundee Local Plan Review 2005. It is concluded that there are no material considerations of sufficient weight to support approval of the application contrary to the Development Plan. The application is therefore recommended for **REFUSAL**.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of a 400m<sup>2</sup> (gross) convenience retail store with a service area and parking for 10 cars. Access will be taken from Annfield Road. The plans indicate a service path to the north of the building to access the rear storage which will contain refuse bins. The proposed parking comprises 9 spaces with 1 designated disabled space. The existing vehicle access would be widened to 6.5 metres.

## SITE DESCRIPTION

The site lies on the north side of Hawkhill on the east side of its junction with Annfield Road. It extends to 1,135m<sup>2</sup> and currently contains a car wash with its service yard. There is a car service centre to the north; a veterinary practice and medical centre to the west and a modern commercial unit to the east. Hawkhill, is a busy, arterial road leading to the City Centre, which acts as a bypass to the original main route into the City from the west along Perth Road. To the south of Hawkhill lies a group of commercial units, Ryehill Health Centre and further to the west, Blackness Primary School.

The nearest residential properties to the site are 75m to the south across Hawkhill or 140m to the west.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Employment Policy 2: Existing Employment Areas.

### Dundee Local Plan 2005

The following policies are of relevance:

Policy 22: High Amenity Economic Development Areas.

Policy 45: Location Of New Retail Developments.

## Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:  
Scottish Planning Policy 2010.



## Non Statutory Statements of Council Policy

There are no non-statutory Council policies relevant to the determination of this application.

## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

## PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and 4 non residential properties were notified. The application was also advertised in the local press. One letter of support and two letters of objection were received within the statutory period. The representations will be considered in the Observations below.

## CONSULTATIONS

The Head of Environmental Protection seeks a Preliminary Risk Assessment in respect of contaminated land as this is a brownfield site close to a former mill and is currently in use as a car wash.

The Head of Environmental Protection seeks conditions to control noise output from mechanical and electrical services and the timing of deliveries if planning permission is granted.

## OBSERVATIONS

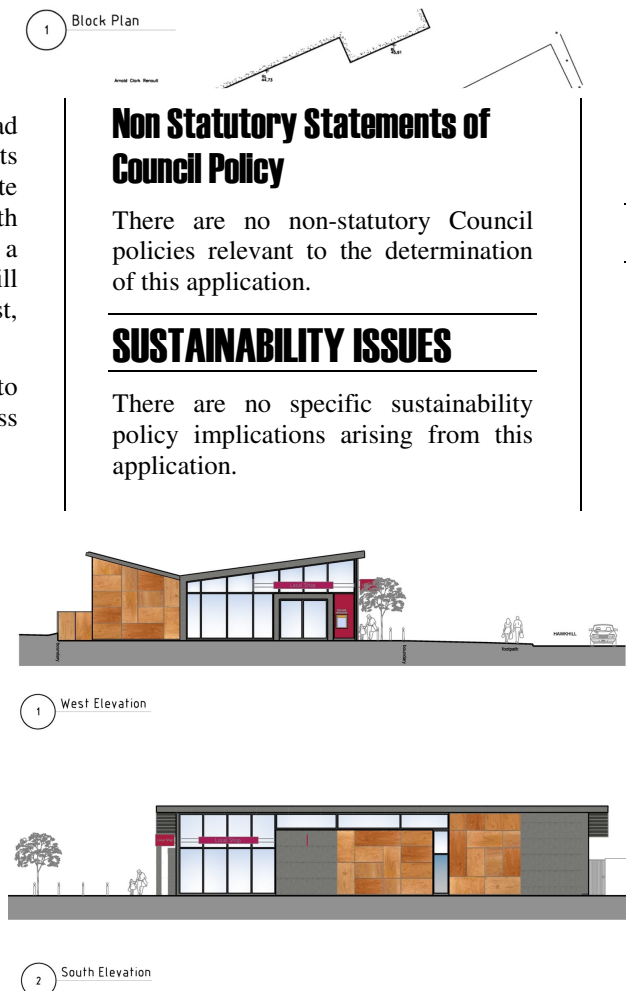
Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.

## The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

## The Dundee and Angus Structure Plan 2001-2016

Employment Policy 2 requires Councils to safeguard and promote land for employment use at a range of locations including "other high quality well located brownfield employment sites, which are appropriate for regeneration and redevelopment". The application site forms part of the high amenity economic development area known as the Hawkhill Technopole and is defined as such in the Local Plan. It is



## SITE HISTORY

11/00378/FULL - an application for the same development was withdrawn by the applicant on 19 September 2011.

considered that the safeguarding of this site for employment uses is supported by the Structure Plan and that its development for retail use would run contrary to the provisions of the Plan.

The Structure Plan also requires the application of the sequential test to retail applications of a strategic size (defined in Town Centres and Retailing Policy 4 as being in excess of 1,000m<sup>2</sup> gross. This application seeks permission for the approval of a retail development totalling 400m<sup>2</sup>. Therefore, it is considered that the Policy contained in the Structure Plan in relation to out of centre retailing is not relevant in this instance.

**Dundee Local Plan 2005**

Policy 22: High Amenity Economic Development Areas.

The site lies within an area identified for economic development under this policy which states:

"The Council will encourage the establishment and retention of uses within Class 4 (Business) within the high amenity sites as identified on the Proposals Map. Exceptions where defined in Policy 27 (Ancillary Services within Economic Areas), will only be considered favourably where it can be demonstrated that the development will enhance the attractiveness of the area for business investment."

The proposed development for a Class 1 retail use does not comply. Policy 27 seeks to provide services such as childcare, banking or cafes which would satisfy the requirements of employees in the area. This employment site is bounded to the north by local shopping provision on Blackness Road and to the south is within 160 metres of the District Centre on Perth Road and there is no justification for the application to be considered favourably under Policy 27.

It is concluded that the development fails to comply with Policy 22 in respect of the allocated use of the site.

Policy 45: Location of New Retail Developments.

The Local Plan does not identify additional retail development in this location. In order to be acceptable, the proposal must meet all of the criteria of Policy 45 as follows:

a "no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres".

The boundaries of the City Centre and District Centres are defined in the Local Plan and both contain defined Core Areas which are the subject of specific references in the relevant policies. It is recognised that the Core Areas tend to accommodate many of the key retailers and services underpinning the centre as a whole.



Perth Road District Centre is quite elongated given its historic development and stretches from the Sinderins junction in the west to the group of shops at 53 - 75 Perth Road in the east, a distance of some 500 metres. The Core Area stretches from the Sinderins to the junction of Perth Road with Pennycook Lane and Step Row, a distance of 180 metres. Within the Core Area the frontage is almost completely composed of retail units, restaurants and a public house. The remainder of the District Centre is primarily located on the north side of the road and is fairly fragmented.

The application site lies 160m from the nearest point of the District Centre across a busy, arterial route. It is physically, visually and functionally separated from the District Centre by the barrier of Hawkhill and is in an area of commercial premises. There is no direct and obvious route for pedestrians from the existing shopping centre at Perth Road to Hawkhill. Given the physical and functional separation from the District Centre, it is considered that the site does not constitute an edge of centre site.

There are vacant retail premises available in both the City Centre and in other District Centres which could accommodate this retailer, but

alternative sites in West Marketgait, Barrack Street and High Street, Lochee inter alia, have not been considered in the applicant's Retail Statement.

The Retail Statement considers that, as the site is edge of centre, there is no need to examine other suitable sites but does so in the interests of robustness. The sites investigated by the Statement are residential sites with higher value, the majority of which have been developed. There are other potential sites, in commercial use but not allocated in the Local Plan, which have not been investigated by the applicant and which may be more suitable including a site on Perth Road, immediately adjoining the District Centre which is surplus to the requirements of the University of Dundee. The review of possible alternative sites appears to have been undertaken on the basis of a site visit seeking gap sites or to simply justify this particular location. It is concluded that there are potential suitable sites

in the City Centre, in a District Centre and which are genuinely edge of centre which would meet the sequential test and for this reason, the application fails to comply with part a) of Policy 45 and with the terms of the Structure Plan and the SPP.

b "individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres".

The development would provide a small modern convenience store with off street car parking on a busy road between the City Centre and the west end of the City. The Retail Statement advises that the store is aimed at people who live and work nearby and who are able to walk or cycle to the store. However in this location, it would provide a clear alternative, particularly to car borne customers, to the historic traditional shopping centre at Perth Road for top up shopping. It is considered that the proposed retail unit could draw trade from existing convenience shops and from other service users who benefit from association with such retailers which could potentially prejudice the vitality and viability of the District Centre.

c "the proposal would address a deficiency in shopping provision

which cannot be met within or on the edge of these centres"

The Perth Road District Centre provides a wide range of shops and services. To the north, approximately 335 metres away is the local shopping on Blackness Road which also provides a range of goods and services.

There are no houses immediately adjoining the application site. Housing to the west is even closer to Perth Road; new student housing within the University is approximately 400 metres from Lidl and the nearby Tesco Express at West Port and the new housing at Bellfield Street is 350 metres from the local shopping at Blackness Road or 300 metres from the local Somerfield convenience store at Brook Street. This demonstrates that surrounding houses are close to a range of existing retail services and the area is not considered to be an area of poor and inadequate shopping provision.

It is considered that there is no deficiency in shopping provision and there are sites available within or on the edge of the City and District Centres. The site is not within or on the edge of the District Centre.

d "the site is readily accessible by modes of transport other than the car".

Perth Road, between the City Centre and the Sinderins junction, is served by 13 buses per hour. Hawkhill, between the City Centre and the Sinderins junction, is served by 2 buses per hour. The site is not readily accessible by public transport. The site lies on the north side of a busy dual carriageway served by a light controlled crossing to the west of the primary school and is not readily accessed by residents of Perth Road and streets to the south of Perth Road which are densely populated. Accessibility to the site by cyclists will also be affected by the busy nature of the traffic on Hawkhill.

e "the proposal is consistent with other Local Plan policies"

The proposal does not comply with Policy 22 and therefore also fails to comply with Policy 45.

It is concluded that, for the above reasons, the proposed development fails to comply with the criteria set out in Policy 45.

For the reasons given, it is concluded that the development does not comply with the relevant policies in the Structure and Local Plan.

## **Other Material Considerations**

### **Tayplan Strategic Development Plan**

The Strategic Development Plan for the Tayplan area is currently with Scottish Ministers for approval. The Strategic Development Plan sets out the long term spatial strategy, vision, policies and proposals to guide development in the Tayplan area for the next 20 years. When approved by Scottish Ministers the Tayplan Strategic Development Plan will replace the Dundee & Angus Structure Plan 2001-2016. The Proposed Plan maintains the general thrust and direction of the Policies contained within the current Development Plan with regard to employment and retail developments.

### **Scottish Planning Policy 2010**

This SPP is a statement of Scottish Government policy on land use planning and contains, amongst other things, concise subject planning policies, including the implications for development planning and development management.

Town Centres and Retailing - this section advises that when determining applications for retailing a sequential approach should be adopted. In dealing with new retail developments it advises that they should be initially assessed as to whether they are consistent with the development plan. Out-of-centre locations should only be considered when:

- all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable;
- development of the scale proposed is appropriate, and
- there will be no significant adverse effect on the vitality and viability of existing centres.

The policies of the Development Plan are considered to be in accordance with the guidance set out in SPP. The proposal has been considered against the retailing policies of the development plan where it was

concluded that the proposals were not in compliance with the requirements of the sequential test, as set out above, and it is considered that no further issues are raised in terms of SPP.

## **Representations**

One letter of support was submitted from a resident who welcomed the competition such a store would provide to improve the quality of the stores in Perth Road. The writer supported the development for the proposed end user but this is not a valid reason as the application is for retail use and is not confined to a particular operator.

Two letters of objection were submitted, one from a resident and one from Dundee Civic Trust.

The resident considers the development will take shoppers away from the area and will attract school children at lunchtime to a location on a busy, fast road. The objection also refers to the proposed user but this is not a valid consideration as the application cannot be confined to a particular operator.

The objection on behalf of the Dundee Civic Trust is on the ground of the failure to comply with Policies 43 and 45 of the Local Plan. The Trust refers to the Dundee City Region Retail Study 2006 which identified an over-supply of convenience goods floor space and refers to the Main Issues report of September 2011 which states that existing employment sites should be retained and safeguarded.

## **Supporting Statements**

The applicant has submitted a Retail Statement and a Planning Supporting Statement.

Retail Statement - the statement quotes the SPP, Tayplan and the Dundee Local Plan Review 2005 and considers that the proposal will meet their requirements on the basis that the applicant considers the site to be edge of centre, meets the sequential test and the proposals will address a qualitative deficiency within Perth Road District Centre.

The Statement lists policies in the Local Plan and notes Policy 45 as the key policy against which the proposals must be assessed. It also links the development of major out of centre foodstores supported by Policy 49 with

this application. This justification is not accepted as there is no defined qualitative deficiency in the District Centre and the site and development proposed is not comparable.

The statement confirms that Sainsbury's have committed to the scheme and bases the quality of the proposed development on this factor but the application is for a retail unit and any planning permission could not be either personal to Sainsbury's or conditional upon their occupation.

The justification for defining the application site as "edge of centre" is based on comparing this site to a supermarket development at Dura Street provided in accordance with Policy 50 of the Dundee Local Plan. The two sites and the two developments are not comparable. The Retail Statement states that the site has a "straight route and easy pedestrian/cycle access" to the District Centre. However Hawkhill provides a substantial barrier.

The statement states that there are no sequentially superior sites which are available or suitable but only considers existing retail units and allocated housing sites, most of which have been developed. It details a wide range of new developments or sites with planning permission, in the area which would benefit from the proposed development. Many of these are closer to the District Centre or the City Centre. It does not consider any other sites which are as close or closer to the District Centre which may be suitable for redevelopment.

The statement concludes that the Perth Road is of good overall health but lacks convenience retailer choice, the proposal will help to add choice in terms of the retailer and will address a deficiency of national multiple retailers at an edge of centre position. The District Centre has a large convenience retailer with more than 1,200m<sup>2</sup> of floorspace in a central location with parking to the rear; a national convenience retailer in a unit of 500m<sup>2</sup> within the Centre and a number of independent food retailers providing a wide range of goods.

The Council concludes that the Retail Statement relies heavily on the proposed operator and justifies the development on the basis that the site is edge of centre; Perth Road lacks a national multiple retailer; the development would not adversely

affect the District Centre but would attract customers to the area. These conclusions are not agreed as noted above in the observations and the assessment against the Development Plan policies.

Planning Supporting Statement - the statement suggests that the development will attract people to the general area "who could/would also use the specialist facilities available at the existing shops in Perth Road." The many competing providers in the Perth Road appear to benefit from competing stores nearby and there is no evidence that they would suffer any downturn from this proposal. It justifies the application on the grounds that the Local Plan was approved in 2005 and is out of date. The conclusions are not agreed as the site is not in or on the edge of the centre, customers would not be able to move easily between shops and the Local Development Plan currently in preparation does not support the application.

### **Local Development Plan**

The Local Development Plan is now in preparation. A Main Issues Report and Draft Environmental Report have been the subject of consultation.

The Main Issues Report identifies employment land which is effective with good communications to the strategic road network. The application site is contained within a High Amenity Economic Development Area where the preferred option for the Plan is that this allocation should be maintained and safeguarded. With respect to retailing, the Report indicates that there was already sufficient convenience floorspace provision in the City as a whole. Concerns about the vitality and viability of some District Centres did not include Perth Road. The report also reflects the need to deliver quality and sustainable shopping places with access by a wider choice of sustainable modes of transport. The Main Issues Report has been approved by Committee for consultation and is a material consideration which supports retention of the employment allocation of this site and does not support the development of the site for retail use in potential conflict with the Perth Road District Centre.

### **Site Layout**

The site lies on the north side of Hawkhill, close to its junction with Annfield Road. There is an access to the adjacent car servicing centre immediately to the north. The access and parking area will accommodate both service and customer vehicles and there is the potential for conflict. The defined end user has confirmed that deliveries to the site can be outwith trading hours. The average store visit time is identified as 6 minutes and it is suggested that customers are mainly on foot and will not require cars for their small bags of shopping.

The submitted estimated customer numbers indicate 30 transactions between 8.00am and 9.00am and 100 transactions between 4.30pm and 6.00pm. The suggestion is that 20% would be car borne customers.

The site lies to the east of Blackness Primary School, a local medical centre and a veterinary centre and is on a busy commuter route into the City Centre. The store will attract car borne customers who pass the site and may also be used for multiple use visits by parents delivering and collecting children and visitors to the two health related centres. This will not be in the best interests of the store operators, who will seek to ensure that any potential customers will always find a vacant car parking space.

The store should have three disabled parking spaces but only provides one and the provision of two additional disabled spaces will result in the loss of more than 2 of the 9 standard spaces. There appears to be insufficient space within the site to provide the necessary parking and vehicle circulation. to accommodate the vehicles that this store, in this particular location, would be likely to attract, particularly as the site is not well served by bus services.

### **Assessment of Material Considerations**

The Scottish Planning Policy contains the sequential test for location of retail development and, as detailed in the observations, the application fails to meet the test and this and weighs in favour of refusal.

One objector and one supporter focused on the proposed end user which is not a valid planning reason.

The objections on the grounds of failure to comply with the Local Plan and adverse impact on the District Centre are accepted as material considerations in support of refusal of the application.

The Retail Statement and the Planning Statement emphasise the end user and seek to demonstrate the deficiencies of the District Centre. The conclusions are not agreed and the statements do not carry sufficient weight to set aside the Development Plan.

The Main Issues Report of the Local Development Plan weighs in favour of refusal.

It is concluded that the material planning considerations weigh against the proposed development and do not support approval of the proposal contrary to the Development Plan.

## Design

The design of the proposed store is a simple modern retail unit. The site is small and located on the corner of Hawkhill, a busy local distributor road which acts as a by-pass to Perth Road. The design meets the requirements for the development to be well designed, appropriate to the location and contribute to the urban design of the area.

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## CONCLUSION

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When determining an application, the Committee is required to make the determination in accordance with the Development Plan unless material considerations justify an exception to those provisions.

The proposed development fails to comply with Employment Policy 2 of the Dundee and Angus Structure Plan 2001-2016 and Policies 22 and 45 of the Dundee Local Plan Review 2005. It is concluded that there are no material considerations of sufficient weight to support approval of the application contrary to the Development Plan.

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## RECOMMENDATION

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It is recommended that consent be REFUSED for the following reasons:

### Reasons

1 The application is not supported by and is contrary to Employment Policy 2 of the

Dundee and Angus Structure Plan 2001-2016 and Policy 22 of the Dundee Local Plan Review 2005 which seek to protect high amenity economic development areas as the proposed use is not Class 4 and does not meet the exceptions in the Local Plan policy by enhancing the attractiveness of the area for business development. There are no material considerations of sufficient weight which would justify a decision contrary to this.

- 2 The application is not supported by and is contrary to Policy 45 of the Dundee Local Plan Review 2005 as it fails to satisfy the sequential test as set out in the Policy; the site is not "edge of centre"; the development has the potential to prejudice the vitality and viability of the District Centre; there is no deficiency in the shopping provision to be addressed; the site has limited access by bus compared to the District Centre and the application fails to comply with other policies in the Plan. There are no material considerations of sufficient weight which would justify a decision contrary to this.
- 3 The proposed site layout provides insufficient parking, including disabled spaces, to accommodate the vehicles that this unit would be likely to attract, to the detriment of traffic and pedestrian safety.