

External Alterations, Installation of Mezzanine Floor and Formation of External Sales Area

KEY INFORMATION

Ward Lochee

Address

Units 1D and A4
Kingsway West Retail Park
467 Clepington Road

Applicant

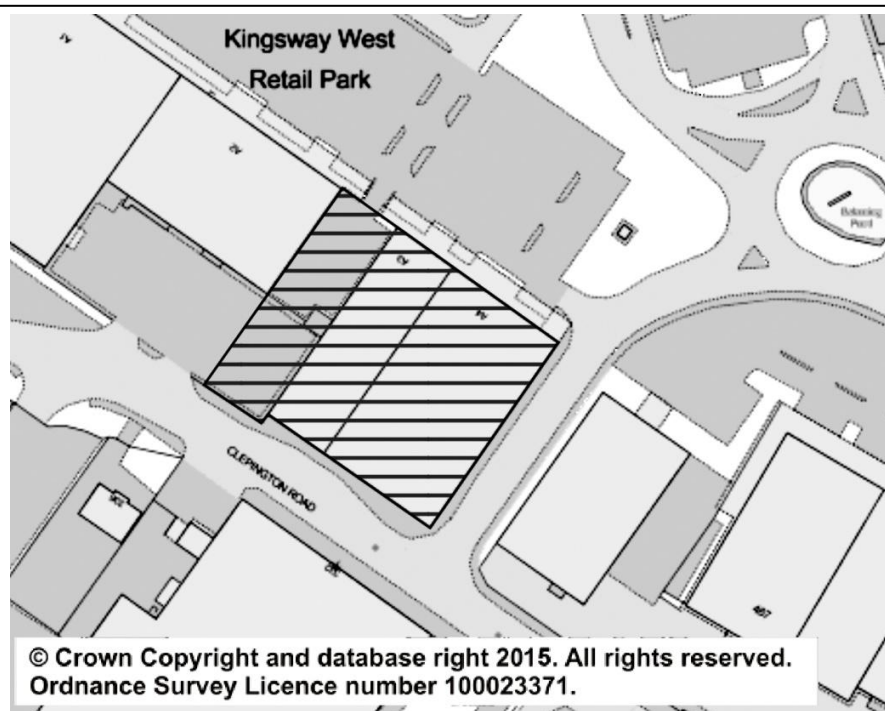
Ares Management UK Ltd &
Next Group Plc c/o Agent

Agent

GVA James Barr
Quayside House
127 Fountainbridge
Edinburgh EH3 9QG

Registered 9 May 2016

Case Officer David Gray



SUMMARY OF REPORT

- This is a joint planning application by the owner of Kingsway West Retail Park and Next Group Plc to convert and alter an existing retail unit comprising external alterations to the elevations, the installation of a mezzanine floor and the formation of an external sales and display area.
- The application proposes to expand the existing unit with 3,342m² of additional floorspace and the supporting justification states that purpose of the development is to accommodate a Next Home and Garden Store that would include a sales area of 1,321m² for clothing and footwear.
- The unit is located at Kingsway West Retail Park where the range of goods is limited to bulky type comparison goods and where the sale of clothing and footwear is restricted.
- The sale of clothing and footwear at Kingsway West would be contrary to Policy 7 (Town Centres) of TAYPlan and Policies 23 (Goods Range Restrictions) and 24 (Location of New Retail Development) of the Dundee Local Development Plan. It would undermine the development plan retail strategy and have a significant detrimental impact on to the vitality and viability of the City Centre, District Centres.
- Two letters of objection and one letter of representation have been received.
- The applicant states that the proposal would result in investment and job creation at Kingsway West Retail Park.
- The application requires to be determined by the Development Management Committee at the request of a local member.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpaweb/simpleSearchResults.do?action=firstPage>.

RECOMMENDATION

The proposal fails to satisfy the requirements of the Development Plan. There are no material considerations that would justify approval of planning permission. Therefore, it is recommended that this application be REFUSED.

1 DESCRIPTION OF PROPOSAL

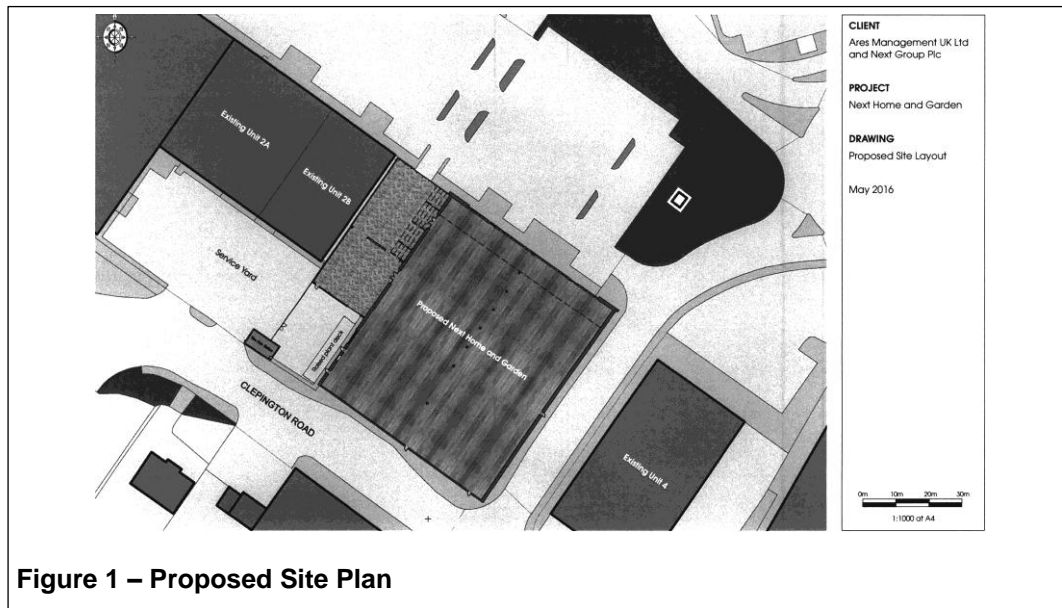


Figure 1 – Proposed Site Plan

- 1.1 The application seeks planning permission for the conversion and alteration of the existing unit comprising external alterations, the installation of a new mezzanine floor, and the formation of an external sales and display area at Units A3 and A4, Kingsway West Retail Park. The proposal would see the unit's existing gross floorspace of 2,785m² extended by an additional 3,342m² (2,784m² mezzanine and 558m² garden centre) to provide a total of gross floor area of 6,127m². The proposed total sales floorspace would be 3,598m².
- 1.2 The applicant states that the purpose of the application is to accommodate a new Next Home and Garden store at Kingsway West Retail Park. However, it is important to note that the application is for the development (the additional floorspace and alterations), not the prospective occupier. The supporting justification for the unit states that the applicant intends to form a home section selling bulky comparison goods which would account for 42% of the total sales floorspace, a clothing and footwear section (37%), a garden centre, including the proposed conservatory (16%) and a cafe (5%). The plans also illustrate a staff area and stockrooms in addition to the proposed sales floorspace. The supporting information submitted by the applicant indicates that the clothing and footwear sales element of the proposal would amount to 1,321m².



Figure 2 – Proposed Elevations



Figure 3 – Proposed Elevations

- 1.3 The external alterations would see the north east elevation fronting the car park altered with full height planar glazing and grey brick pillars. Similarly, two large sections of the south east elevation facing the access road into the retail park from Clepington Road would be altered to provide full height glazing. The existing canopy on this elevation would be removed as part of the proposal. Smaller sections of full height glazing are also proposed on the south west and north west elevations. The remainder of the building would have a grey brick finish. The external sales area adjoining the unit would be bound by glazed screens on top of a grey brick wall. A modern fully glazed, flat roofed conservatory is proposed on the north west elevation of the unit.
- 1.4 In accordance with the Council's scheme of delegation this application is being reported to the Development Management Committee at the request of a local member.



Figure 4 – Photo of Existing Unit From North East



Figure 5 – Photo of Existing Unit and Access from Clepington Road

2 SITE DESCRIPTION

- 2.1 The application site is located mid-way along the western boundary of Kingsway West Retail Park. The site takes the form of a sub-divided double volume retail warehouse building with glazed ground floor frontage on the north east elevation. The site has a service yard to the north west of the building and a large customer car parking area to the north east. The car

park is accessed from the main road through the retail park and from the secondary access into the Retail Park via Clepington Road. To the north west the site is bound by a terrace of large retail warehouses with service yards to the north west and car parking to the north east. The site is bound to the south by the secondary entrance/exit to the Retail Park via Clepington Road. To the immediate north of the building is a small car parking area between Units A3 and A2.

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012-2032

Policy 7: Town Centres

DUNDEE LOCAL DEVELOPMENT PLAN

Policy 7: High Quality Design

Policy 23: Goods Range Restrictions

Policy 24: Location of New Retail Developments

Policy 54: Active Travel

Policy 55: Accessibility of New Developments

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS

Policy Planning Policy 2014

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

4.1 Over the last 20 years there have been a variety of planning applications approved by the Council for the development, redevelopment and restriction of the range of goods that can be sold from Kingsway West Retail Park.

4.2 The following most recent applications are of particular relevance to the current application:

- a Planning application ref: 13/00402/FULL for external alterations to elevations, formation of external sales and display area and associated works which was approved by the Development Management Committee in September 2013. That planning permission expires on 23 October 2016.
- b Application ref: 13/00404/MDPO under Section 75A of The Town and Country Planning (Scotland) Act 1997 to Modify the Planning Obligation associated with planning application reference D/12001 to permit clothing and footwear to be sold from not more than 1,300m² of the sales area of units A3 and A4 of Kingsway West Retail Park was refused by the Development Management Committee in October 2013. A subsequent appeal of that refusal was dismissed and the application refused.
- c Application ref: 14/00216/MDPO under Section 75A of The Town and Country Planning (Scotland) Act 1997 to Modify the Planning Obligation recorded on 26 June 1987 to allow an electrical retail warehouse unit of only 1,000m² gross floorspace was approved by the Development Management Committee in May 2014.

- d Application: 14/00217/MDPO under Section 75A of The Town and Country Planning (Scotland) Act 1997 to Discharge the Planning Obligation recorded on 12 October 1990 was approved by the Development Management Committee in May 2014. This was also in relation to the relocation of an electrical warehouse unit.
- e Application: 16/00412/MDPO under S75A of The Town and Country Planning (Scotland) Act 1997 to modify or discharge a Planning Obligation was received on 9 May 2016. This application was declared invalid and returned to the applicant.
- 4.3 **Members should note that in order to sell clothing and footwear from the proposed expanded retail unit, the existing obligation that restricts such items would require to be modified or discharged. In the absence of such a modification or discharge, the applicant would be unable to implement the intentions of this planning application. Members should also note that the Council has previously refused and successfully defended an appeal for such an application to modify the obligation (ref: 13/00404/MDPO). Members should also note that the decision on this planning application will require to be given weight in the determination of any future valid application to modify or discharge the planning obligation.**

5 PUBLIC PARTICIPATION

- 5.1 The Council has followed the statutory neighbour notification procedures. This application has also been advertised as a departure to the Development Plan.
- 5.2 Two letters of objection and one letter of representation were received, citing the following concerns:
- Proposal is contrary to the Development Plan;
 - Proposal would undermine the vitality and viability of Dundee City Centre;
 - The proposal would not be acceptable unless a modification or discharge of the planning obligation is acceptable;
 - Impact on Gallagher Retail Park; and
 - Lack of parking provision.
- 5.3 Members will already have access to the letters of representation and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

- 6.1 **The Head of Community Safety and Protection** – recommended that an informative regarding land contamination and groundworks be attached to the decision notice should planning permission be granted.

7 DETERMINING ISSUES

- 7.1 **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.

TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012

- 7.2 **Policy 7: Town Centres** - encourages protecting and enhancing the vitality and viability of town and Commercial Centres, as they directly contribute to providing good quality places and to the region's economic competitiveness. It outlines the hierarchy of comparison retail centres in the Strategic Development Plan Area and states that Local Development Plans should identify roles for Commercial Centres for leisure, bulky goods and other retail. They should also support a mix of uses in the City Centre that will encourage vitality and diversity of economic and social activity in both the day and the evening. Policy 7 also stipulates that planning decisions should be based on the justification of planning proposals in combination with the sequential approach in the Scottish Planning Policy and other local considerations as appropriate.
- 7.3 The Dundee Local Development Plan 2014 allocates Kingsway West, Kingsway East and Gallagher Retail Parks as Commercial Centres in line with Policy 7 of the TAYplan Strategic Development Plan. Kingsway West and Kingsway East Retail Parks provide for bulky comparison goods such as furniture and DIY type goods with the range of goods controlled through legal agreements. Gallagher Retail Park provides for personal and leisure type comparison goods and performs a complementary role to the City Centre.
- 7.4 As set out in Policy 7 these Commercial Centres perform a complementary role in the retail hierarchy for the City which focuses on the City Centre and District Centres being the locations of first choice for new or expanded retail developments. The range of goods restrictions related to each of the Kingsway Retail Parks seek to ensure that the viability and vitality of the City Centre and District Centres is not undermined.
- 7.5 The current application proposes 3,342m² of additional retail floorspace at one of the existing retail warehouse unit through the provision of a mezzanine floor and an external sales area. This level of proposed floorspace is equivalent to in excess of doubling the floor area of the existing unit. Whilst this level of floor area in itself would not raise significant issues in terms of Policy 7 the applicants have indicated that this additional floor area is required to accommodate a Next Home and Garden format store.
- 7.6 As part of the format of the store concept there would be 1,321m² of floor area given over to the sale of clothing and footwear. This level of floor area is the equivalent to a separate retail warehouse unit, almost the size of the DFS store at Kingsway West. It is also 40% larger than the sales area of the existing Next store within the Overgate Centre. The resultant unit, with a floor area of 6,127m² would be the largest comparison goods retail warehouse on a retail park in Dundee.
- 7.7 This level of floor area for clothing and footwear would not be permitted by the existing range of goods restrictions that apply to this unit and would not be in accordance with the role and function of Kingsway West Retail Park within the hierarchy set out in the Local Development

Plan. Accordingly, this element of the proposed store format would not be in accordance with Policy 7 of the TAYplan Strategic Development Plan.

7.8 **The proposal contravenes Policy 7.**

DUNDEE LOCAL DEVELOPMENT PLAN

7.9 **Policy 7: High Quality Design** – requires all new development proposals to have a high quality design that positively contributes to the surrounding built and natural environment, with designs complementing their surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.

7.10 The proposed alterations to the elevations of the existing retail warehouse building are of high quality contemporary design and finish that would complement the appearance of the building and enhance the appearance of the Kingsway West Retail Park. The use of extensive full height glazing interspersed with grey brick would break up the blank elevations of the building, particularly on the north east elevation. The proposed conservatory on the north west elevation would also have a high quality, contemporary appearance.

7.11 **The proposal satisfies Policy 7.**

7.12 In considering new or expanded retail developments, it is necessary to assess the proposal in accordance with the sequential approach identified in national, strategic and local policy.

7.13 **Policy 24: Location of New Retail Developments** - states that new or expanded retail developments will only be acceptable where it can be established that:

- a no suitable site is available in the first instance, within the City Centre or District Centres, then edge of centre, then Commercial Centres;
- b it would not individually or cumulatively prejudice the vitality or viability of the City Centre, District Centres or Commercial Centres;
- c the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres; and
- d the site is readily accessible by modes of transport other than the car.

7.14 All four criteria must be satisfied if the development is to comply with this policy.

7.15 The proposed development is to increase the floor area through the provision of a mezzanine floor and external garden centre at existing retail unit within Kingsway West Retail Park.

7.16 In terms of Criterion 1, the applicant's planning statement contains a sequential assessment. This is shaped by the Next Home and Garden business model, the floor space required for this store format and the interests of the applicant. The sequential assessment looked at alternative sites including: Overgate extension; Wellgate extension; Former Roberstons; The Stack; Gallagher Retail Park extension; Dundee Waterfront; and the District Centres. The applicant's supporting justification explains that the proposal would result in a total gross floorspace of 6,127m², comprising sales areas of 3,598m² (including 1,321m² for clothing and footwear). This would be the biggest retail warehouse unit for comparison goods on any of the retail parks in Dundee and therefore it is accepted that the prospects of accommodating a unit of that size and nature in, or adjoining the city centre or in one of the District Centres are likely to be remote. However, it must be noted that accommodating the

additional floor area proposed (including the clothing and footwear sales area, which is the unacceptable aspect of the proposal), would be considerably easier to achieve in the discounted locations and this option is not explored by the applicant.

- 7.17 The application fails to justify the proposal under Criterion 1 as the applicants have limited their approach to the expanded unit's large size. They have failed to demonstrate that the proposed additional floorspace could be accommodated elsewhere.
- 7.18 In terms of Criterion 2, it requires to be established that the proposal would not individually or cumulatively prejudice the vitality or viability of the City Centre, District Centres and Commercial Centres. Whilst it is accepted that the proposed additional floor space in itself would not undermine the City, District or Commercial Centres, consideration of the proposed store format, in particular the accommodation of the clothing and footwear sales area is required.
- 7.19 A clothing and footwear sales area of that size would result in trade diversion (which the applicant estimates would be £1.83million) from the City Centre. Should this amount of clothing and footwear sales occur, a damaging precedent would be created with the potential for other retailers to relocate from the City Centre and District Centres to the Commercial Centres. Such a scenario would have a significant damaging impact on the vitality and viability of the City Centre and District Centres. This would be particularly unacceptable at a time where it is noted that vacancy rates in Dundee City Centre are higher than the Scottish average.
- 7.20 In addition, Members should note that should Next occupy the unit, it is their intention to close the Next store at Gallagher Retail Park where clothing and footwear may be sold. Gallagher Retail Park plays an important and unique role in the retail hierarchy in that it is both a Commercial Centre and an edge of centre site that supports the role and function of the City Centre. This situation, should Next close the Gallagher Retail Park store, would undermine the integrity of the retail hierarchy and strategy as set out in the development plan.
- 7.21 As a result, the proposal would prejudice the vitality and viability of the City Centre, District Centres and the role of the different Commercial Centres.
- 7.22 Criterion 3 requires the proposal to address a deficiency in shopping provision that cannot be met within or on the edge of centres. The applicant's planning statement contains a detailed Dundee City Centre, District Centre and Commercial Centre Health Check as well as qualitative and quantitative deficiency assessments of the area surrounding the application site. The City Centre Health Check demonstrates that Dundee City Centre continues to thrive as a regional shopping centre. This is a clear reflection of the success of the development plan retail strategy and the goods range restrictions at the Commercial Centres.
- 7.23 In terms of quantitative deficiency, the applicant carried out a survey at the Next Home and Garden Store at Fife Retail Park in Kirkcaldy. The findings indicated that 10% of the respondents were from the Dundee primary and secondary catchment areas (which for reference includes Dundee as well as Tayport, Cupar, Newburgh, St Andrews, and Perth) and the applicant states that this demonstrates people are travelling outwith Dundee to visit the Next Home and Garden Store. However, the level of travel from the catchment areas (10%) is not surprising, particularly where a number of those respondents could have been from Fife, where the store is located.
- 7.24 In terms of quantitative deficiency, the applicant makes reference to the Dundee Retail Study 2015 where it states there is a quantitative deficiency for new comparison bulky goods retail

development over the next 10 years. The applicant considers that the proposed development would tackle a known quantitative deficiency and states that Dundee should seek to better cater for this need by focussing upon the City brand and attractiveness of the entire area as a shopping destination, rather than focussing narrowly on individual destinations within this.

- 7.25 The Dundee Retail Study 2015 explains that leakage from Dundee to other centres outside of Dundee in terms of comparison goods is low at 5%. This is a strong indicator that the existing policies are working well. Whilst the study forecasts some spare convenience and comparison expenditure, it also emphasises the importance of supporting identified commitments and the existing network of centres. It states that the existing policy assumptions against out of centre retail development and the associated restrictions on the range of goods to be sold in the Commercial Centres needs to be applied rigorously.
- 7.26 As such, whilst additional floorspace would likely be acceptable in principle, it requires to be of the right type and in the right location to be acceptable. The current proposal, which would accommodate a significant area of non-bulky clothing and footwear sales, would not be acceptable at this location. The proposal would not address a deficiency in shopping provision that could not be met within the City or District Centres, or the Commercial Centres in accordance with the goods restrictions.
- 7.27 Lastly, Criterion 4 relates to accessibility by modes of transport other than the car. Whilst the Kingsway West Commercial Centre is predominantly accessed by car, public transport and the cycle parking is available. The application meets the requirements of Criterion 4.
- 7.28 The proposal involves the expansion of retail floor space at Kingsway West Retail Park which requires to follow the sequential approach for new or expanded retail developments. The format of a Next Home and Garden Store which the applicant seeks to accommodate in the unit would not meet the sequential approach, would undermine the development plan retail strategy and have a significant damaging impact on the City Centre and District Centres. It would not address any deficiency in shopping provision that could not be met within on the edge of those Centres.
- 7.29 **The proposal therefore contravenes Policy 24.**
- 7.30 The unit is located at Kingsway West Retail Park where planning obligations and conditions restrict the range of goods that can be sold from the retail warehouses. The goods range restrictions ensure that a balance is maintained between safeguarding the City Centre in its role as a regional shopping destination and allowing flexibility to provide bulkier retail warehouse goods in out of centre locations and to ensure that they continue to provide a valuable and accessible service for shoppers.
- 7.31 In that respect, Policy 23 is relevant to the determination of this application.
- 7.32 **Policy 23: Goods Range Restrictions** - seeks to safeguard the vitality and viability of Dundee City Centre and the District Centres by restricting the sale of certain goods ranges sold at the three Commercial Centres (Kingsway East, Kingsway West and Gallagher Retail Parks). New proposals involving the sale of the restricted goods ranges at Kingsway West Retail Park will only be supported where it can be established that:
- a they will not affect, either on their own or in association with other built or approved developments, the Local Development Plan strategy in support of the City Centre and the District Centres;

- b they will be capable of co-existing with the City Centre and the District Centres without individually or cumulatively undermining their vitality and viability; and
- c they will tackle deficiencies in qualitative or quantitative terms which cannot be met in or at the edge of the City Centre and the District Centres.

- 7.33 Again, all Criteria must be satisfied if the development is to comply with this policy.
- 7.34 The proposal is to expand the floor space of an existing unit at Kingsway West Retail Park to accommodate a Next Home and Garden store. The applicant states that such a store would include a clothing and footwear sales area amounting to 1,321m².
- 7.35 Regarding Criterion 1, The Local Development Plan strategy directs retail uses to the City Centre in the first instance, then District Centres and thereafter the Commercial Centres where they meet the goods range restrictions. Clothing and footwear sales are restricted at Kingsway East and Kingsway West. The applicant clearly states that their intention is to form a clothing and footwear sales area of 1,321m² and this would be contrary to the Local Development Plan strategy. To put the scale of the proposed clothing and footwear sales area into context, the Next store in the Overgate provides a sales area of 944m². The proposed Kingsway West clothing and footwear sales area would therefore be 40% larger than the existing Next store in the Overgate. That amount of retail floorspace dedicated to the sale of clothing and footwear would lead to a significant change in the role of Kingsway West Retail Park and significantly undermine the Local Development Plan strategy which supports of the City Centre and District Centres.
- 7.36 For these reasons, the proposal would not satisfy Criterion 1.
- 7.37 The second Criterion requires it to be established that the proposal will be capable of co-existing with City Centre and District Centres without individually or cumulatively undermining their vitality and viability. For similar reasons to those explained above in relation to Criteria 2 of Policy 24, the proposal would prejudice the vitality and viability of the City Centre and District Centres.
- 7.38 A relaxation of the retailing controls in Kingsway West Retail Park would likely have to be equally applied to Kingsway East Retail Park and other out of centre shopping destinations. If allowed across all existing retail parks then it would significantly undermine the existing centres. It would also undermine the policy approach of different restrictions at Gallagher Retail Park and the Kingsway West and East Parks. Given the current economic climate it is important to ensure that the success of maintaining the restrictions at the Retail Parks and the benefits that this has brought to the City Centre and District Centres is not undermined at this time. Such developments would undermine the vibrancy and vitality of the City Centre and District Centres not only by drawing trade from these local and regional shopping centres but also drawing popular high street retailers from their current City and District Centre locations. This is demonstrated by the likely closure of the Next store at Gallagher Retail Park should Next open a Home and Garden Centre at Kingsway West.
- 7.39 The sale of clothing and footwear from the expanded retail warehouse at Kingsway West would therefore not be capable of co-existing with the City Centre and District Centres without undermining their vitality and viability.
- 7.40 The proposal therefore fails to satisfy Criterion 2.
- 7.41 The third criterion requires proposals to tackle deficiencies in qualitative or quantitative terms which cannot be met in or at the edge of the City Centre and District Centres. This is partially addressed above in relation to Criterion 3 of Policy 24. With specific reference to

the goods range restrictions which is the principal objective of Policy 23, the applicant would need to show that the City Centre and District Centres fail to provide satisfactory facilities for the sale of clothing and footwear to establish a qualitative deficiency. This has not been assessed by the applicant and no such evidence has been submitted.

- 7.42 The application therefore fails to satisfy Criterion 3 of Policy 23.
- 7.43 The Dundee Retail Study 2015 states that the principal advice is to strongly apply the restrictions on out of centre development proposals in order to maintain and strengthen the vitality and viability of the established centres. Kingsway West Retail Park currently enjoys almost 100% occupancy with planning permission already granted to further expand the retail park. The application fails to demonstrate that there is a need to relax the current goods range restrictions at Kingsway West Retail Park.
- 7.44 **The sale of clothing and footwear at Kingsway West is contrary to Policy 23.**
- 7.45 **Policy 54: Active Travel** - states that new development should be designed in order to minimise the need to travel by private car, improve access to services and promote healthy lifestyles by encouraging active travel. This requirement may be applied flexibly where the reuse of existing buildings is involved.
- 7.46 The proposal is for additional floorspace and alterations to an existing unit at an existing retail park. Pedestrian routes and cycle parking are already available at the park. Similarly, public transport is available to and from Kingsway West.
- 7.47 **The proposal satisfies Policy 54.**
- 7.48 **Policy 55: Accessibility of New Developments** - requires all development that would generate travel to be well served by all modes of transport, with priority afforded to sustainable modes of walking, cycling and public transport.
- 7.49 Again, this application relates to an existing unit at Kingsway West Retail Park where public transport, cycle parking and pedestrian access are catered for. There are some concerns about the significant amount of additional floorspace proposed and the nature of the type of store the applicant intends to accommodate within the resultant unit. Such a flagship store selling clothing, footwear, home and garden goods and containing a flagship brand café, would result in a significant increase in the number of visitors to this part of the retail park.
- 7.50 The scope of the Transport Statement submitted in support of the application was in support of an amendment to the existing legal agreement and physical works to the building including a garden centre. It's scope did not fully take account of the proposed additional floorspace and the nature and type of the proposed.
- 7.51 The site is adjacent to the busy entrance to the park on Clepington Road and pedestrian movement between this area and the remainder of the retail park to the east is already difficult due to the busy access road. Additionally, there is a risk that if a store of this type becomes operational on this site, that traffic will back up onto Clepington Road with implications for the signal controlled junction into the retail park. A Next Home and Garden Centre in this location would exacerbate the traffic issues and this has not been addressed in the applicant's Transport Statement.
- 7.52 **The proposal contravenes Policy 55.**

DEVELOPMENT PLAN ASSESSMENT CONCLUSION

- 7.53 Planning permission is sought for the expansion of an existing vacant retail warehouse unit at Kingsway West Retail Park. The expansion comprises 3,342m² of additional floor space and the applicant states that this would be to accommodate the format of a Next Home and Garden store. This would result in the largest bulky comparison goods retail warehouse on a retail park in Dundee. Whilst the principle of the additional floorspace would be capable of being accommodated without significant damage to the City Centre and District Centres, the proposed store format would include 1,321m² of clothing and footwear sales. This is a significant sales area, akin to a separate retail unit in its own right. Such a proposal would be contrary to the goods range restrictions at Kingsway West and allowing a significant clothing and sales area here would undermine the development plan retail strategy and lead to a significant damaging impact on the City Centre, District Centres and Commercial Centres.
- 7.54 **It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.**
- 7.55 The other material considerations to be taken into account are as follows.

OTHER MATERIAL CONSIDERATIONS

A - NATIONAL POLICY AND GUIDANCE

- 7.56 Scottish Planning Policy 2014 states that the planning system should apply a town centre first policy and ensure that development plans, decision making and monitoring support successful town centres (paragraph 60). A sequential approach is set out in paragraph 68 to take account of this. It also states that plans should identify Commercial Centres which have a more specific focus on retailing and/or leisure uses and where necessary to protect the role of town centres, specify the function of those centres, for example, where retail activity may be restricted to the sale of bulky goods (paragraph 63).
- 7.57 The current Development Plan reflects the approach outlined in SPP in relation to town centres and retail development and this part of SPP does not weigh in favour of the development.
- 7.58 SPP also states that the planning system should be plan led and play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities (paragraph 4). The creation of jobs and strengthening the economy weighs in favour of the proposal and this is discussed in more detail below.
- 7.59 Scottish Planning Policy weighs both in favour and against the development.

B - PROPOSED TAYPLAN STRATEGIC DEVELOPMENT PLAN

- 7.60 Policy 5: Town Centres First continues to focus land uses that attract significant footfall (including retail, commercial leisure and offices) in city /town centres ahead of other locations to ensure they provide a wide range of accessible services and facilities for use during the day time and in the evening.
- 7.61 The policy sets out the sequential priority for land uses that generate significant footfall. Commercial Centres are third in the order of priority based on the compatibility with land uses defined for that Commercial Centre in the Local Development Plan. The accompanying text to the policy states that Local Development Plans may also continue to

limit the type of goods that can be sold, particularly in Commercial Centres. Currently, Policy 23 of the Dundee Local Development Plan restricts the goods ranges within the Commercial Centre as explained above, and it is proposed to continue the restrictions on goods ranges in the next Dundee Local Development Plan.

7.62 Policy 5 of the Proposed TAYPlan does not support the approval of the application.

C - ECONOMIC BENEFIT

7.63 The applicant states that the proposal would deliver a substantial capital investment of £5.2 million into the local economy and a clear signal of investor confidence in the city. They also state that Next currently employs 56 people (16 FTE) at Overgate, 44 (13 FTE) at Gallagher and 33 (9 FTE) at Kingsway West. They state that the proposed store would have 202 employees (64 FTE) and that this, in combination with the Overgate (56, 16 FTE), would result in Next employing 258 (80 FTE) in Dundee. The planning statement states that the existing Next stores at Gallagher and Kingsway West would close. The applicant states that overall, the proposal would create an additional 125 (42 FTE) jobs and this would weigh in favour of the development.

7.64 However, it is normally the case that the consolidation of a number of stores into a single larger unit would result in a requirement for less staff per m². In this instance the applicant claims that the consolidation of the Gallagher and Kingsway West Retail Park stores would actually result in an overall increase in staff per m². The existing Next clothing and footwear store at Gallagher Retail Park and Home Store at Kingsway West Retail Parks have a combined floorspace of 3,047m² and provide 77 (22 FTE) jobs in total. This equates to 1 job per 39.6m². Applying that figure to the proposed floorspace of the Next Home and Garden Store equates to the creation of 155 jobs. However, the applicant states that the new Home and Garden Store would require 202 jobs (80 FTE).

7.65 There is no detailed explanation of how the store would be staffed. Whilst there may be new jobs created which takes account of displacement from the closure of the existing Next stores, there is no evidence of what the impact would be on jobs in other clothes and footwear stores in the City Centre that would result from displacement due to the trade diversion from the City Centre to Kingsway West.

7.66 Notwithstanding the economic benefits of the proposed development that the applicant claims would occur, Members should note that the approval of planning permission would adversely impact on the economy and job security within the City Centre.

7.67 The economic benefits of the proposal would not be of sufficient weight to approve the application contrary to the Development Plan.

D - DIFFERENCES BETWEEN 2013 AND 2016

7.68 The applicant states much has changed since 2013 which allow the application to be supported. These include the continued marketing of unit 3 for bulky goods with no interest, the opening of the Fife Next Home and Garden store, the Dundee Retail Study confirming a need for new retail floorspace and the offer of a binding legal commitment to ensure unit 3 could only be used for selling fashion and footwear goods if the retailer maintained a city centre presence.

7.69 The applicant's statement that unit 3 has been vacant and marketed with no interest from operators is noted. However, they also state that there has been keen interest in the existing Next store at Kingsway West, should it become vacant and this appears to be

without marketing. This, conversely, indicates that there is demand for units at Kingsway West.

- 7.70 With regard to the statement about the Next Home and Garden store opening in Kirkcaldy, this does not justify that the same should happen at this unit at Kingsway West Retail Park.
- 7.71 The Dundee Retail Study does not identify the need for any changes to the Council's approach to retailing in Dundee. It states that the forecasts of spare convenience and comparison capacity should be directed to supporting the existing network of centres. It crucially states that the range of goods sold in the Commercial Centres needs to be applied rigorously and that the failure to achieve this risks weakening the established centres, which would be counterproductive (paragraph 23).
- 7.72 The offer of a binding legal agreement was also put forward in 2013, and this is not a key difference. This is discussed in more detail below.
- 7.73 Fundamentally, nothing significant has changed since the idea of a Next Home and Garden Centre was rejected in 2013, other than the applicant has marginally increased the proposed clothing and footwear sales area from not more than 1,300m² to 1,321m².
- 7.74 There are no material differences of sufficient weight that would justify approval of the application contrary to the development plan.

E - EXISTING PRESENCE OF CLOTHING AT KINGSWAY WEST

- 7.75 It is noted that the existing Tesco supermarket at Kingsway West Retail Park provides clothing and footwear for sale. The amount of non-food retail permitted at the supermarket is 30% and only 50% of that area is allowed to be for clothing and footwear sales. This is an established supermarket where clothing has historically been allowed. It is not uncommon for such supermarkets to contain a small element of clothing and footwear sales and such supermarkets are not considered to be main flagship clothing and footwear shopping destinations. The presence of such a store at Kingsway West would not prejudice the future development of the retail park and the existing situation would not justify a relaxation in the goods range restrictions of the Kingsway West Retail Park.
- 7.76 The existing sales of clothing and footwear at Tesco, Kingsway West would not justify approval of this application contrary to the development plan

F - OFFER OF A PLANNING OBLIGATION

- 7.77 Should planning permission be granted the applicant has offered to enter into a planning obligation which they state would ensure that the sale of clothing and footwear from the unit would only be allowed whilst clothing and footwear is also being sold by the same retailer within the City Centre. The applicant's offer of such an offer would last until the end of 2024, being the term of Next's recently extended lease at the Overgate Centre.
- 7.78 This is not an entirely new offer as a similar proposal was put forward as part of the previously refused application to modify an existing obligation (ref: 13/00404/MDPO). Whilst this could arguably help prevent a vacant unit in the City Centre in the short to medium term, it would not secure the long term future of such a City Centre presence. It would not be able to control the size of the City Centre unit or the precise nature and quality of the goods sold. Most importantly, it would not prevent the direction of trade and footfall from the City Centre to the retail park and the resultant damage that would occur to the City Centre and District Centres. Additionally, the proposed obligation would not compensate for the loss of the Next store at Gallagher Retail Park should it close.

7.79 The obligation suggested by the applicant would not be of sufficient weight to justify approval of the application contrary to the development plan.

G - VIEWS OF OBJECTORS

7.80 Two letters of objection and one letter of representation were received, citing the following concerns:

- proposal is contrary to the Development Plan;
- proposal would undermine the vitality and viability of Dundee City Centre; and
- the proposal would not be acceptable unless a modification or discharge of the planning obligation is acceptable.

7.81 These matters are considered in the assessment above.

7.82 One letter also states that that no weight should be given to a letter contained in the applicant's Supporting Statement from Culverwell Property Consultants which states that should planning permission be forthcoming at Kingsway West, they would be confident of securing a sale of the Next Store at Gallagher to allow a seamless operation. The letter of representation, states that Culverwell have no professional relationship with the owner and that the owner does not agree with the opinions in the Culverwell letter. As explained in the assessment above, the loss of a flagship store such as Next at Gallagher Retail Park in favour of clothing and footwear sales at Kingsway West would be harmful to the Gallagher Retail Park.

7.83 Lastly, one letter of objection raises a concern about the lack of parking for the proposed development. The applicant's Transport Statement explains that the number of units within the Kingsway West Retail Park would not increase with the approval of this application. There is sufficient parking for the number of units at Kingsway West and as the proposal would not increase the number of units at the park, the level of parking provision would remain acceptable.

7.84 The concerns of the objectors are supported with the exception of parking provision which is acceptable.

7.85 **It is concluded from the foregoing that the material considerations are not of sufficient weight to justify the approval of planning permission contrary to the Development Plan.**

8 CONCLUSION

8.1 Planning permission is sought for 3,342m² of additional floorspace at unit 3, Kingsway West Retail Park. The proposed additional floorspace comprises a mezzanine floor and an external sales area. The joint applicant (the owner of Kingsway West Retail Park and Next Group Plc) states that the proposal is to accommodate the format of a Next Home and Garden store. This resultant unit, at 6,127m² would be the largest comparison goods retail warehouse on a retail Park in Dundee. It would also include a clothing and footwear sales area of 1,321m², some 40% larger than the existing Next Store in the City Centre's Overgate.

8.2 Such a store would undermine the development plan retail strategy and lead to a significant damaging impact on the City Centre and District Centres. It would also lead to a significant

change in the role of Kingsway West Retail Park, the likely closure of the Next store at Gallagher Retail Park with the resultant impact on the role of Gallagher which supports the City Centre. As a result, the proposal is contrary to the Development Plan.

- 8.3 Any change in the roles of the retail strategy or Commercial Centres should be undertaken through a review of the Development Plan, and not on an ad hoc basis.
- 8.4 The sale of clothing and footwear at Kingsway West Retail Park is restricted by planning obligation and the applicant would be unable to implement the sale of such goods without a modification or discharge that planning obligation. The Council has previously refused and successfully defended an appeal to relax the goods range restrictions here, and there have been no fundamental changes since then to justify such a relaxation now.
- 8.5 Whilst the development would likely result in investment and the creation of additional jobs at the retail park, and this weighs in favour of the development, the nature of the store proposed would lead to such a damaging impact on the City Centre, District Centres and Commercial Centres that the economic benefits would not justify a departure from the Development Plan.
- 8.6 The proposal fails to satisfy the requirements of the Development Plan. There are no material considerations that would justify approval of planning permission. Therefore, it is recommended that this application be refused.

9 RECOMMENDATION

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

REASONS

- 1 The development, in proposing 1,321m² of clothing and footwear sales floorspace at Kingsway West Retail Park, is contrary to Scottish Planning Policy (2014), Policy 7 of TAYPlan Strategic Development Plan and Policies 23 and 24 of the Dundee Local Development Plan as it would have an adverse impact on the vitality and viability of Dundee's City Centre, District Centres and Commercial Centres. The proposal would significantly undermine the established Development Plan retail strategy which aims to protect the vitality and viability of Dundee's City Centre, District Centres, and Commercial Centres. In addition, it would set a precedent for additional proposals of a similar nature to the further detriment of the City Centre, District Centres, Commercial Centres, and the Development Plan retail strategy. There are no material considerations that would justify approval of the application contrary to the approved and adopted Development Plan.
- 2 The applicant has failed to demonstrate that the development would have no detrimental effect on the capacity of the existing road network to the detriment of road traffic and pedestrian users and the application is contrary to Policy 55 of the Dundee Local Development Plan 2014. There are no material considerations that would justify approval of the application contrary to the approved and adopted Development Plan.