

# Foodstore at Land to East of 61 Myrekirk Road

## KEY INFORMATION

**Ward** Lochee

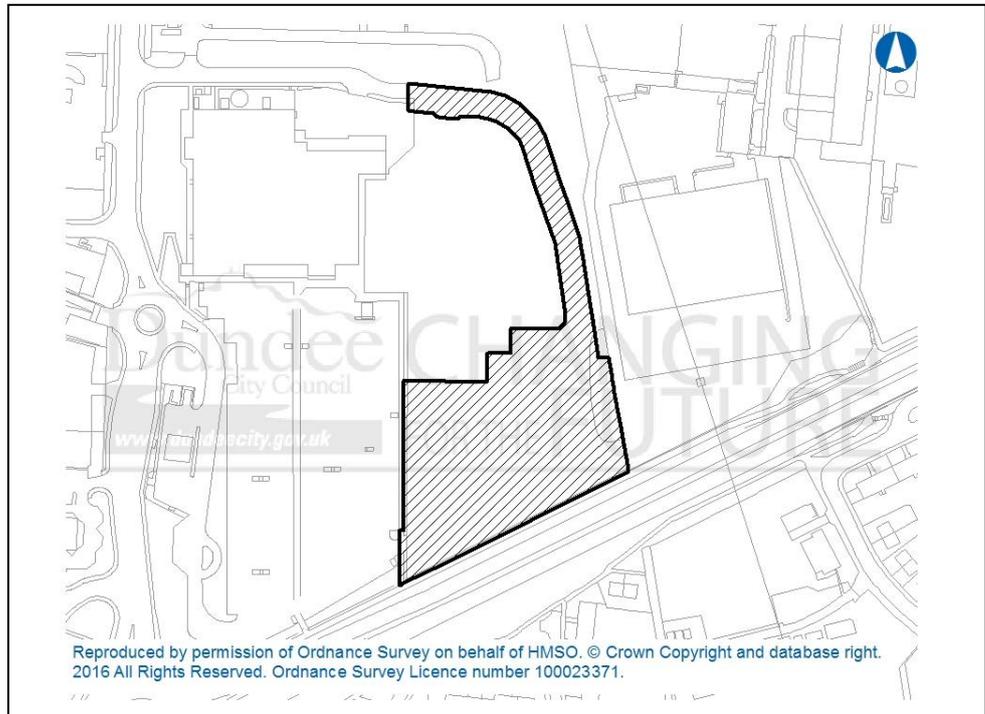
**Address**  
Land to East of 61 Myrekirk  
Road, Dundee

**Applicant**  
Aldi Stores Ltd  
c/o agent

**Agent**  
Robert Newton  
Quayside House  
127 Fountainbridge  
Edinburgh  
EH3 9QG

**Registered** 2 Sep 2016

**Case Officer** David Gray



## SUMMARY OF REPORT

- This application is a duplicate of application 15/00404/FULL which was approved by the Development Management Committee at its meeting on 17 August 2015. That permission is currently the subject of a legal challenge and has not been implemented.
- The application proposes the erection of a Class 1 foodstore with a gross floor area of 1,887m<sup>2</sup>, with a sales area of 1,254m<sup>2</sup>.
- Two letters of objection have been received in relation to the proposal.
- The proposal is contrary to Policies of TAYplan Strategic Development Plan 2012-2032 and Dundee Local Development Plan 2014 in terms of employment land and retailing.
- The applicant has put forward supporting information, including an Employment Land Report and a Planning and Retail Statement.
- It is concluded that the proposed Class 1 foodstore is not in accordance with the uses acceptable for this prominent site within a designated Principal Economic Development Area; there is no deficiency in shopping provision in this location to justify the proposal and that there are other more appropriate sites available for retail development in the city. The material considerations are of insufficient weight to justify a decision contrary to this.
- The application is being referred to the Development Management Committee at the request of a Local Member.
- More details can be found a <http://idoxwam.dundee.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>.

## RECOMMENDATION

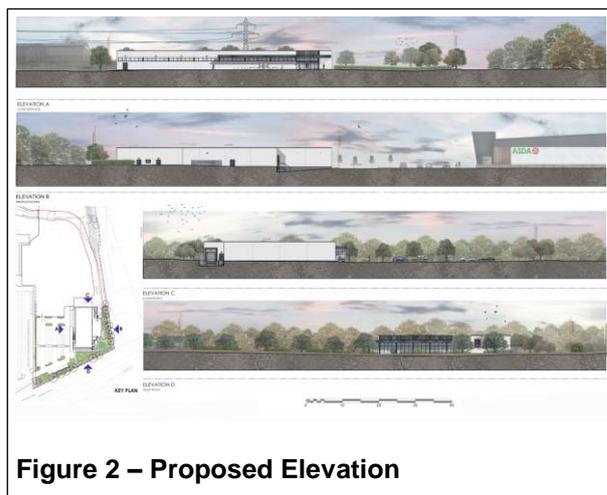
The proposal fails to meet a number of employment and retailing Policies of the Development Plan and the material considerations are not of sufficient strength such as to justify approval of the application contrary to the provisions of the Plan. The application is therefore recommended for REFUSAL.

# 1 DESCRIPTION OF PROPOSAL



**Figure 1 – Proposed Site Plan**

- 1.1 The application proposes the erection of a Class 1 foodstore with a gross floor area of 1,887m<sup>2</sup> with a sales area of 1,254m<sup>2</sup>. There would be 110 car parking bays with additional cycle racks. The building is of a single storey design with the main entrance area treated with glazing.
- 1.2 The development would take access from the same access points as the existing and adjacent store for both customer parking and servicing arrangements.
- 1.3 The plans indicate areas of landscaping to the south and east of the site, with the existing cherry trees, which are the subject of a Tree Preservation Order, to be retained.
- 1.4 The proposed opening hours of the store are between 8.00am and 10.00pm, Monday to Saturday and 9.00am to 7.00pm on Sundays.
- 1.5 The application is essentially the same one as that submitted in 2015 (reference 15/00404/FULL), which was approved by the Development Standards Committee at its meeting on 17 August 2015. That planning permission is currently the subject of a legal challenge. The applicant states that otherwise, it would have been implemented. The applicant states that the purpose of the current application is to allow the construction of an Aldi store on the site in a shorter timescale than might be the case with the extant permission that is subject to the legal challenge.
- 1.6 The application is being referred to the Development Management Committee at the request of a Local Member.



**Figure 2 – Proposed Elevation**

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## 2 SITE DESCRIPTION

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- 2.1 The site is located on the edge of Wester Gourdie Industrial Estate on the north east side of the junction of Myrekirk Road and Kingsway West. The application site forms part of a former industrial site that once accommodated the former NCR factory complex and is designated as a Principal Economic Development Area.
- 2.2 The proposed site plan indicates that land further north would be potentially accessed from the application site, but there are no details for any future plans.
- 2.3 The site is a cleared site with some vegetation commonly found on vacant and derelict sites. In addition, a former landscape area is evident on the Kingsway frontage and protected cherry trees are evident on the south boundary of the site.
- 2.4 The main access into the site is from the mini roundabout on Myrekirk Road to the west that leads to the car parking area located on the south side of the existing supermarket building. The service access is located on the north side of the site.
- 2.5 The surrounding area is predominantly industrial in character with the exception of several uses including car dealerships, a children's nursery and a single residential property. An established residential area (Charleston) is located to the south of the site on the south side of Kingsway West. The existing retail food store directly adjacent to the site is outwith the Principal Economic Development Area designation.



Figure 3 – Photo of Site from the South



Figure 4 – Photo of Site from the North

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## 3 POLICY BACKGROUND

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

**TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012-2032**

Policy 3: Managing TAYplan's Assets

Policy 7: Town Centres

**DUNDEE LOCAL DEVELOPMENT PLAN**

Policy 1: Principal Economic Development Areas

Policy 7: High Quality Design

Policy 24: Location of New Retail Developments

Policy 29: Low and Zero Carbon Tech in New Development

Policy 44: Air Quality  
Policy 55: Accessibility of New Developments

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

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## 4 SITE HISTORY

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- 4.1 The application site was previously occupied by NCR and included a large industrial building. This has since been demolished and the site has been vacant for approximately 5 years.
- 4.2 Proposals were submitted as an outline planning application to this Council on 22 July 2009. Planning permission in principle was granted on 18 January 2010 (reference 09/00427/OUT). This application established the principle of developing the site as a foodstore and petrol filling station, illustrating a layout, means of access and amendments to the road network. A further application (10/00750/FULM) for the same proposals was subsequently approved by this Council. That permission has been implemented as the adjacent foodstore to the west of the current proposal.
- 4.3 A planning application for the erection of a retail foodstore with associated car parking, access, landscaping and other works was submitted to the Council on 29 May 2015. That application was approved by the Development Management Committee in August 2015 with the decision notice being issued on 21 August 2015. This decision is currently the subject of a legal challenge.

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## 5 PUBLIC PARTICIPATION

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- 5.1 The Council has carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. This application was also advertised in the Dundee Evening Telegraph as a departure to the Development Plan.
- 5.2 Two letters of objection have been received in relation to the proposals raising the following valid issues:
- a there is an excess of supermarket floor space;
  - b the Local Development Plan does not provide for another retail park in the city and this site should not be allowed to become one by default;
  - c flawed rationale for the development - the proposed development is justified on the basis of bringing the Aldi brand to the west of Dundee to serve a particular customer in Dundee. This justification amounts to a statement that Aldi has a different offer to other retailers. This assumption is no longer appropriate given all retailers have adapted their offer to respond to changing economic circumstances. As such Aldi will be replicating a retail offer which is currently available to the catchment area;
  - d the proposal is contrary to employment land and retailing Development Plan Policies;
  - e there are insufficient material considerations to support the Aldi proposal and the proposals do not bring benefits which outweigh the Policy provision;

- f the applicant's argument that a further store is required would not address a known deficiency and therefore is not in accordance with this policy;
  - g the Travel Plan is inadequate in influencing travel behaviour and the development will remain predominantly car based;
  - h concerns in relation to the Myrekirk signalised junction in terms of adverse traffic impacts;
  - i concerns regarding impact on air quality have not been addressed; and
  - j supporting information has not been updated since the 2015 submission.
- 5.3 Members will have had access to these letters and the issues raised are considered in the Observations section below.

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## 6 CONSULTATIONS

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- 6.1 **Transport Scotland** – do not object to the proposals and have requested that conditions in relation to landscaping, lighting, barriers and drainage be attached to any grant of permission.
- 6.2 **BEAR** – no adverse comments have been received.
- 6.3 **The Head of Community Safety and Protection (Contamination)** – has no objection to the application subject to the addition of planning conditions requiring further investigation and risk assessment, and the submission of a remediation strategy.
- 6.4 **The Head of Community Safety and Protection (Air Quality)** – requests that the applicant provides a scheme of mitigation measures to help off-set their impact on air quality. In the event that Members are minded to support the proposals, this should be the subject of a planning condition.
- 6.5 **The Head of Community Safety and Protection (Noise)** – has no objection subject to the addition of a condition to limit the noise from all mechanical and electrical services during the night.

## 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 2012-2032

- 7.2 TAYplan recognises that the right type of development in the right places can lead to a series of social, economic and environmental benefits.

- 7.3 **Policy 3: Managing TAYplan's Assets** - this policy makes provision for an effective 5 year supply of employment land with the allocation of new land for employment. This policy encourages that development is fit for place and that some areas or assets are safeguarded for a specific range of land uses. As such Wester Gourdie is allocated as a principal economic development area in the Dundee Local Development Plan. As a means of providing a supply of employment land, the area is safeguarded for Class 4, Class 5 and Class 6 uses only.
- 7.4 **Consequently, this proposal for Class 1 retail is contrary to Policy 3.**
- 7.5 **Policy 7: Town Centres** - to achieve the Scottish Government's aim to protect and enhance town centre vitality and viability TAYplan identifies a hierarchy of town centres. Comparison retail development should be focused within the town and commercial centres specified in the retail hierarchy (Table 2 page 21 TAYplan). Dundee City Centre is identified as the regional centre.
- 7.6 Local plans should identify the specific boundaries for each and can identify roles for 'other service centres' beneath the regional hierarchy. Planning decisions should be based on the justification of planning proposals combining this hierarchy, the sequential approach in the Scottish Planning Policy and other local considerations as appropriate. The location of the proposal is outwith an identified centre where comparison retail development must be focused.
- 7.7 **Consequently, the proposals are contrary to Policy 7 of the TAYplan.**

#### **DUNDEE LOCAL DEVELOPMENT PLAN**

- 7.8 **Policy 1: Principal Economic Development Areas** - advises that sites located within Principal Economic Development Areas are of city wide significance and should be safeguarded for industrial and business uses. As such this policy seeks to resist uses outwith Classes 4 (Business), 5 (Industrial) and 6 (Storage and Distribution) of the Use Classes Order 1997. Policy 4: Ancillary Services within Economic Development Areas supports small scale ancillary services which can be demonstrated to meet the needs of employees and complement existing businesses
- 7.9 The application site is located within the Wester Gourdie Principal Economic Development Area and is one of a number of well located and long established economic development areas that remain well suited for their purpose. This is a proposal to site a Class 1 retail food store on allocated Principal Economic Development Area land. The proposed foodstore is not a small scale ancillary service to the Principal Economic Development Area and would not be supported in accordance with Policy 4.
- 7.10 **The use of the site for a Class 1 retail food store is contrary to the provisions of Policy 1 including the exceptions as defined in Policy 4 of the Plan.**
- 7.11 **Policy 7: High Quality Design** - seeks to ensure that new development safeguards and enhances environmental quality, creating quality places and mitigating potential negative impacts.
- 7.12 It is proposed to erect a single storey building, where the main entrance will provide high level glazing and a canopy. The delivery area will provide a service pod and docking area to the rear.
- 7.13 The scale and massing of the proposed building is in keeping with the existing nearby buildings and the building would not appear out of place. The extensive use of glazing to the

main frontage is considered to be attractive and the retention of the landscaping areas to the south and east boundaries will help to break up the views into and out of the site.

7.14 **Consequently, the proposal is considered to satisfy the requirements of Policy 7 of the Dundee Local Development Plan.**

7.15 **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.

7.16 In line with Scottish Planning Policy, TAYplan Strategic Development Plan and the National Review of Town Centres External Advisory Group Report: Community and Enterprise in Scotland's Town Centres, this policy places strong emphasis on the need to protect and enhance the vitality and viability of the town centre. As part of this the policy advocates a sequential approach to new shopping developments with first preference being the town centre which in Dundee includes the City Centre and five District Centres. This site is outwith the City Centre and District Centres and there are suitable sites within or on the edge of the City Centre and District Centres which are capable of accommodating this scale of proposal.

7.17 The applicant has not demonstrated that they have considered other sites located in the City Centre or the five District Centres.

7.18 Aldi operates two stores in Dundee, one in The Stack and one at Arbroath Road. There are other vacant premises available which could accommodate a proposal of this nature in the City Centre and district centres (the applicant was made aware of other potential sites at pre-application meetings prior to the submission of the 2015 application).

7.19 As such this proposal is contrary to Criterion 1 of the policy.

7.20 In terms of Criterion 2 the proposed store would have a gross floor area of 1,887m<sup>2</sup>. It is proposed that the floor space within the store would be divided as follows: the sales area would comprise 1,254m<sup>2</sup>; convenience sales floorspace 1,000m<sup>2</sup>; and comparison sales floorspace 250m<sup>2</sup>.

7.21 If the application is supported then it would encourage the development of other similar type stores to appear outwith the City Centre and District Centres and in relation to this site would lead to the creation of defined retailing area, similar to the scale of retail parks found in Commercial Centres and District Centres. Consequently, if further retailers of this nature were proposed the cumulative impact could impact on the vitality and viability of the City Centre. Consequently, it is considered that this proposal is contrary to Criterion 2.

7.22 In relation to Criterion 3, the applicant states in the Planning and Design Statement that "there is a known quantitative deficiency in shopping provision with the catchment area". The unit is to be occupied by a discount food retailer which currently operates a store within

The Stack selling the range of goods proposed for this site. In addition, there is an existing large food store directly adjacent to the site and a further large food store a short walk away on South Road. Both of these existing stores carry discounted ranges.

- 7.23 The Council considers that there is a generous overall supply of food shopping floorspace across the city and the improved distribution of major food retailing resulting from, amongst other things, the completion of Morrison's (Forfar Road), Tesco (South Road) and Asda (Myrekirk) stores, the city benefits from good provision for this type of retailing. Furthermore, given the existing availability of major foodstores and District Centres serving the western sector of the city, it is considered that there is no deficiency to be addressed at this time.
- 7.24 In this regard, it is the case that a new foodstore unit in this location will simply displace trade from the existing nearby units. By the same reasoning, any resulting job creation will be by virtue of the displacement of others elsewhere in the city. There is therefore no identified deficiency for this type of retailing that can not be met within the existing centres. Consequently this proposal is contrary to Criterion 3.
- 7.25 The site is readily accessible by public transport and not just reliant on the car. Consequently the proposal complies with Criterion 4.
- 7.26 **The proposal is contrary to Policy 24.**
- 7.27 **Policy 44: Air Quality** - states that there is a general presumption against proposals that could significantly increase air pollution or introduce people into elevated pollution concentration unless mitigation measures are adopted.
- 7.28 The Head of Community Safety and Protection states that no air quality assessment is required for the proposed development. However, a scheme of mitigation measures to help offset the impact of the development on air quality would be required. The applicant has indicated that electric vehicle charging points would be incorporated into the site and the provision of these in consultation with the Head of Community Safety and Protection would provide mitigation. A comprehensive scheme of mitigation, including the provision of electrical vehicle charging points could be required by condition should Members be minded to approve the application.
- 7.29 **The application would comply with Policy 44 through the addition of a condition.**
- 7.30 **Policy 55: Accessibility of New Developments** - states that all development should be well served by all modes of transport. There are 5 criteria which this proposal must adhere to.
- 7.31 Accessibility issues have been assessed in detail in the Transport Assessment that has been submitted to accompany this application. This Assessment has demonstrated that the site is accessible by a choice of transport modes other than by private car. Safe provision is made for deliveries by providing a separate entrance for HGVs.
- 7.32 Details have been submitted regarding, amongst other things, bus service availability, pedestrian access details and footway/cycleway details. Many of which are already in place.
- 7.33 The provisions in this regard are considered to be acceptable and are in compliance with the requirements of Policy 55.
- 7.34 **Policy 29: Low and Zero Carbon Tech in New Development** - requires that, for specified developments, carbon emissions will be reduced by defined percentages through the installation and operation of zero-carbon generating technologies.

- 7.35 The submitted Design and Access Statement provides some information regarding the energy saving measures in the construction of the proposed store. These include a proposal to "Minimise Energy Use," the objective of which is to minimise energy needs in development and includes "arctic circle" technology which removes 100% of a store's requirement for heating equipment by recycling heat from the refrigeration units.
- 7.36 Aldi also propose to install solar panels on the roof to help generate renewable energy and minimise their impact on the environment.
- 7.37 **The proposal would therefore satisfy the requirements of Policy 29.**
- 7.38 It is concluded from the foregoing that the proposal fails to comply with the requirements of The Development Plan in relation employment land and the retailing policies.

## **OTHER MATERIAL CONSIDERATIONS**

- 7.39 The other material considerations to be taken into account are as follows:

### **A - SUPPORTING STATEMENTS**

- 7.40 The applicant has provided supporting information in the form of an Employment Land Report and a Planning and Retail Statement.
- 7.41 **Employment Land Report** - the main conclusions as laid out in the submitted Report are summarised as follows:
- a the overall level of industrial land supply remain broadly in line with historic averages, suggesting as secondary accommodation exits the market each year, additional accommodation comes in. The lettings that have occurred are almost all focused at the lower rent, poorer quality end of the market. There is no apparent demand for new build accommodation. Were there is such demand, we would have expected to have seen some evidence of occupiers considering purpose built accommodation in light of the lack of such space in the market. With no such evidence, it can be concluded that the occupiers seeking a presence in Dundee, do not require or are not prepared to pay for more modern space.
  - b the levels of demand and rents being achieved are unlikely to be sufficient to encourage developers to take the risk of speculative development. Unless rental levels can be significantly increased, speculative development will be unviable.
  - c there is sufficient land supply to accommodate development should a developer be prepared to take the risk.
  - d the Council's decision to re-designate land is further evidence of the limited demand for industrial space or land in Dundee and that there is sufficient supply to meet existing demand; and
  - e The loss of the site at Myrekirk Road will have negligible impact on the supply of industrial land in the Dundee area.
- 7.42 **Response** - the Local Development Plan supports existing employment activity and encourages further growth through the designation of appropriate and effective Economic Development Areas as discussed in relation to the Development Policies above. Dundee also has a number of long established and well located economic development areas that remain well suited for their purpose and capable of providing future employment

opportunities either through their retention, regeneration or modest expansion. There is a strong case for optimism within Dundee with expected increased employment to be generated in various sectors including energy related businesses. The City needs to be ready to respond to the demands for employment land and the retention of this land as a Principle Economic Development Area would aid the delivery of this.

- 7.43 It is accepted that the development of the site would not affect the overall supply of Employment Land within the city in quantitative terms. However, the site is considered to be of particularly high quality. The road improvements associated with the development of the adjacent food store have improved accessibility to this Economic Development Area and the application site is highly prominent with excellent accessibility and proximity to the adjacent trunk road.
- 7.44 It is therefore recognised that the loss of this site would have a detrimental impact upon the supply of high quality Employment Land available within the city.
- 7.45 **Planning and Retail Statement** - the main conclusions as laid out in the submitted Report are summarised as follows:
- a The applicant considers the specific format of retail proposed to be particularly relevant to assessing the proposals against relevant planning policy and in informing detailed retail impact assessment matters.
  - b The new Aldi store will help to address both a quantitative and qualitative deficiency within the local area, introducing a form of retail offer that is materially different to the existing provision.
  - c The western parts of Dundee are principally served by two large superstores. The development will improve consumer choice and complement existing provision, at a sustainable and highly accessible location.
  - d There are no recognised "centres" (city, district, or commercial) within the western parts of Dundee. Where Aldi would typically seek to identify opportunities within, or adjacent to these locations, this is not possible in this case. As such, the proposals would not have any significant adverse effect on the vitality and viability of existing centres, and there are no sequentially preferable sites within the catchment area capable of accommodating the development proposed.
  - e The development of complementary facilities in a highly sustainable location, adjacent retail facilities and offering the opportunities for the generation of new linked trips.
  - f The applicant considers it is worth noting the LDP proposals for significant housing expansion at the Western Gateway (600 new homes; appendix 2 of the LDP) and which would ultimately fall within the proposed catchment area of the new store. Whilst the business case for the Aldi proposal does not rely on this population growth, new residents (as with existing residents) will create their own demand for convenient access to a full range of food shopping services, with the increasing expectation that operators, like Aldi, are part of this mix.
  - g They outline how they consider the proposals would address a deficiency in shopping provision, at a sustainable location, in the local catchment area. As part of this, the applicant subsequently provided a document relating to results of a household survey carried out within the proposed catchment.

- h The document provides information in relation to the designation of the land as a "Principle Economic Development Area" and notes a number of factors which they consider to clearly show that this is sufficient land supply available to accommodate development and that the loss of the subject site will have a negligible effect on the supply of industrial land in the city. This is as per the commentary on the Employment Land Report as above.
  - i The site has been marketed over a number of years and interest has only come forward for retail and leisure uses.
  - j The Statement makes reference to a previous planning decision for the adjacent piece of land and notes that the proposed retail use will not undermine the main business/industrial use of the wider estate and the limited scale of the site would not undermine the employment land supply in the area.
  - k Whilst the applicant accepts that there are likely to be sequentially preferable sites within the city available, none of these are suitable to the applicant as they are all remote from the catchment area sought.
- 7.46 The applicant considers that the development would result in the following economic benefits:
- a regeneration and new commercial development activity on a vacant, brownfield site, which has been previously identified for economic related development;
  - b significant levels of new investment into West Dundee; and
  - c 30 new direct jobs, including store managers, assistant managers and store deputies, as well as store assistants, in addition to construction related work and in-direct employment generation through the supply side of the facilities.
- 7.47 **Response** - the application is being determined with due cognisance to the Development Plan and other material considerations. However, the identity of the operator for the development or their calibre is not a material consideration in the determination of the application; it is the use class that is being considered and not the individual business operator. It is the case that the proposed use does not fall within the categories of uses that are required by Development Plan Policy in this location.
- 7.48 In terms of issues in relation to deficiency as put forward by the applicant, it is considered that this issue has been fully discussed in relation to the Development Plan. The Council does not consider there to be a retail deficiency in this location. It is noted in this regard that the proposed store is located directly adjacent to an existing retail food store.
- 7.49 The survey information put forward by the applicant in relation to deficiency is considered to primarily relate to issues of consumer choice. It is noted that there are other discount operators within the catchment area, including one store operated by the current applicant. In addition, there is an existing food store directly adjacent to the site and another store a short walk away on South Road, both of which carry discounted ranges. On this basis, there is no deficiency in retail provision in this catchment area.
- 7.50 There is no concept of binding precedents in the planning system whereby an authority might be obliged to follow the same approach taken in a previous application. Each application must be decided on its own merit.
- 7.51 In terms of proposals for significant housing expansion in the Western Gateway, this does not exacerbate any perceived issues of shopping deficiency in this catchment area as the

village proposals for the west of the city include a range of shops and facilities which are likely to be first choice retail destination for new residents.

- 7.52 The submission details indicate that the proposals would result in the creation of up to 30 new jobs. Whilst the creation of jobs would be a consideration in favour of the development, no information has been provided on the types of job contracts that would be available, or whether they would be displaced from other stores in the area.

## **B - VIEWS OF OBJECTORS**

Two letters of objection were received, citing the following concerns:

- 7.53 **Objection** - there is an excess of supermarket floor space.
- 7.54 **Response** - as discussed in relation to the sequential test required to be met, there is no identified deficiency in shopping provision in this location. The site is directly adjacent to an existing food store which serves the wider catchment area. The Council does not consider there to be a deficiency in retail provision in this location that would justify the erection of a further retail store.
- 7.55 **Objection** - the Local Development Plan does not provide for another retail park in the city and this site should not be allowed to become one by default.
- 7.56 **Response** - retail development in this prominent location, adjacent to an existing retail store, will have a negative impact upon the frontage along the trunk road by creating the impression that the area functions as a "retail park" which may deter future industrial, digital media and employment investors. The Development Plan does not allow for a future "retail park" in this location and the retailing Policies specifically direct retail developments to sequentially preferable sites within the City Centre, District Centre of Commercial Centres.
- 7.57 **Objection** - flawed rationale for the development. The proposed development is justified on the basis of bringing the Aldi brand to the west of Dundee to serve a particular customer in Dundee. This justification amounts to a statement that Aldi has a different offer to other retailers. This assumption is no longer appropriate given all retailers have adapted their offer to respond to changing economic circumstances. As such Aldi will be replicating a retail offer which is currently available to the catchment area.
- 7.58 **Response** - as discussed above, the individual operators of the development or their calibre is not a material consideration in the determination of the application; it is the use classes that are being considered and not the individual business operator. It is the case that the proposed use does not fall within the categories of uses that are required by Development Plan Policy in this location.
- 7.59 **Objection** - the proposal is contrary to the Development Plan Policies.
- 7.60 **Response** - the proposed development has been assessed in relation to the Development Plan and it is concluded that it fails to comply with the Plan.
- 7.61 **Objection** - there are insufficient material considerations to support the Aldi proposal and the proposals do not bring benefits which outweigh the Policy provision.
- 7.62 **Response** - the Policy position and relevant material considerations are discussed in full elsewhere in this report. The views of the objectors are supported in this regard.

- 7.63 **Objection** - the applicant's argument that a further store is required would not address a known deficiency and therefore is not in accordance with policy.
- 7.64 **Response** - the Policy position is discussed in full above and the views of the objectors are supported in this regard.
- 7.65 **Objection** - the Travel Plan is inadequate in influencing travel behaviour and the development will remain predominantly car based.
- 7.66 **Response** - it is considered that the transportation information put forward in support of the application to demonstrate that the site is accessible by a range of means, other than car, is suitable. Full Travel Plan information is usually the subject of a planning condition and in the event of a positive recommendation, then the requirement to provide a suitable Travel Plan would be dealt with in that manner.
- 7.67 **Objection** - concerns in relation to the Myrekirk signalised junction in terms of adverse traffic impacts.
- 7.68 **Response** - the Myrekirk junction is located on the adjacent trunk road, for which Transport Scotland has responsibility for. Transport Scotland has confirmed they do not object to the application but recommended in the event of approval, several conditions be attached. There are no concerns in this regard.
- 7.69 **Objection** - concerns regarding impact on air quality have not been addressed.
- 7.70 **Response** - This matter is considered in the assessment of Policy 44 above. The Head of Community Safety and Protection has requested that details of mitigation measures to offset any impact on air quality and this could be dealt with by condition should Members be minded to approve the application. The applicant proposes to provide electric vehicle charging points to offset the potential impact.
- 7.71 **Objection** - concerns that supporting information has not been updated since the 2015 submission.
- 7.72 **Response** - The applicant has submitted an application for the same development as that approved in application 15/00404/FULL, and the same supporting documentation. The applicant additionally submitted a covering letter indicating the reasons for the current application. The contents of the supporting information and the covering letter have been considered in this report.

### **C - PRE APPLICATION ADVICE**

- 7.73 The applicant engaged in pre application discussions with the Council prior to lodging the 2015 planning application. During that time, they were clearly advised that the proposals would be contrary to the Development Plan. There are other vacant premises available which could accommodate a proposal of this nature and scale in or on the edge of the City Centre and district centres. As part of the pre application process, the applicant was made aware of these other potential sites within the City that would be more suitable in terms of the Development Plan.

### **D - PREVIOUS DECISIONS**

- 7.74 The applicant, in their Planning Statement, makes reference to a previous planning decision for the adjacent site (09/00427/OUT refers). It is considered that the related planning approval (10/00750/FULM) for the same adjacent site is also relevant to consider.

- 7.75 In approving the above applications significant weight was placed upon the planning benefits that the proposals would bring. This included improvements to the strategic road network to assist in free flow of traffic along A90 (T) (Kingsway West) and the fact that the development could assist in the redevelopment of the whole of the former NCR site through the provision of enhanced road access and the clearance of buildings from the site. As part of this consideration it is important to note that these access improvements were not for the purposes of further retail development in this location but were specifically considered to assist in the development of the High Amenity Economic Development Area at Balgarthno located to the west.
- 7.76 In addition, the level of job creation associated with the previous store far exceeds the levels put forward by the applicant for the current proposals.
- 7.77 The approval of the current application will not result in any such “planning benefits” as these access improvements have already been carried out and the proposed level of job creation is less. The circumstances related to the approval of the above applications are clearly of significant difference and do not weigh in favour of support of the current application.
- 7.78 Planning permission for a foodstore on the site for Aldi Stores Ltd was granted on 21 August 2015 (reference 15/00404/FULL). That planning permission was for the same development as that currently proposed and this is a consideration in determining the current application. However, the 2015 permission is currently the subject of a legal challenge, and each application must be determined on its own individual merits. The current application is contrary to the Development Plan for the reasons explained above, and the fact that there is an existing planning permission subject to a legal challenge on the site is not considered to be of sufficient weight to override the relevant provisions of the adopted and approved Development Plan policies.

#### **E - ECONOMIC BENEFITS**

- 7.79 The closure of the NCR factory was a major blow to the economy but the re-development of the site with the approval of a previous retail unit has resulted in the creation of more jobs than those which were lost when the factory finally closed. The applicant advises that the proposals will create up to 30 jobs. Whilst the creation of additional employment opportunities is generally welcome, there are a number of other sites within the city that have been presented to the applicant. They have indicated that they are unwilling to proceed with these sites at this time as they do not meet with the applicant's new store development aspirations to serve residents of west Dundee.

#### **F - DESIRABILITY OF RETAINING THE EXISTING USE**

- 7.80 This site has been the location of a long established industrial use within the city for a considerable number of years. As discussed, the site is considered to be of particularly high quality. The road improvements associated with the development of the adjacent food store have improved accessibility to this Economic Development Area and the application site is highly prominent with excellent accessibility and proximity to the adjacent trunk road.
- 7.81 The site occupies an excellent location on the Kingsway West frontage and is highly accessible. There is strong cause for optimism within Dundee with expected increased employment to be generated in various sectors including energy related businesses. This is in addition to those industries such as Life Sciences and Digital Media for which Dundee already has a strong reputation.

- 7.82 The city needs to be ready to respond to these demands for employment land and the retention of this land as a Principle Economic Development Area is essential in being able to deliver this.

#### **G - REDEVELOPMENT OF BROWNFIELD LAND**

- 7.83 The site has lain vacant since the demolition of the former NCR building on site, and the redevelopment of such a brownfield site is encouraged. However, for the reasons explained above, the proposed use is contrary to the Development Plan, and the retention of the site for industrial use would be the preferred land use. The fact that the site is brownfield would not justify the approval of the application contrary to the Development Plan.

#### **H - DUNDEE RETAIL STUDY 2016**

- 7.84 The Dundee Retail Study forecast spare convenience expenditure in Dundee up to 2026, stating that the City could support additional superstore development but noting that in the current market, operators are more likely to seek small/medium stores up to and around 1300sqm net (including discount foodstores), and small store developments of up to around 300sqm net (including local convenience stores and specialist food retailers). The capacity could also support extensions to existing stores. The proposed store would be of a size that would meet some of the spare capacity identified in that regard.
- 7.85 However, the Retail Study states that the spare capacity should be directed towards supporting the existing network of centres. The Retail Study stated that there is no need for change in relation to Policy 24 of the Dundee Local Development Plan following the research, and that failure to achieve supporting the existing network of centres risks weakening those centres which would be counterproductive to the City's retail strategy. The application is contrary to Policy 24 for the reasons explained above. The Dundee Retail Study 2015 is therefore not considered to be a material consideration that would justify a departure from the adopted Dundee Local Development Plan in this particular instance

#### **I - COMMERCIAL COMPETITION**

- 7.86 It is considered that the identity of the applicants is not a relevant consideration in the determination of this application for full planning permission and consequently it is concluded that commercial competition is not a material consideration.
- 7.87 **It is concluded from the foregoing that the material considerations weigh against the proposal and support the conclusions in relation to the Development Plan**

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## **8 CONCLUSION**

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- 8.1 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.

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## 9 RECOMMENDATION

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

### REASONS

- 1 The proposal for a Class 1 retail use fails to accord with Policy 3: Managing TAYplan's Assets as the land is safeguarded for Class 4, 5 and 6 uses only. There are no material considerations to justify a decision contrary to the Plan.
- 2 The proposed Class 1 retail use fails to comply with Policy 7: Town Centres of TAYplan Strategic Development Plan 2012 - 2032 as the location of the proposal is outwith an identified centre where comparison retail must be focused. There are no material considerations to justify a decision contrary to the Plan.
- 3 The proposal for a Class 1 retail use fail to accord with Policy 1: Principal Economic Development Areas of the Dundee Local Development Plan 2014 as the land is safeguarded for Class 4, 5 and 6 uses only. There are no material considerations to justify a decision contrary to the Plan.
- 4 The proposed retail use fails to comply with Policy 24: Location of New Retail Developments of the Dundee Local Development Plan 2014 as the proposals do not meet the sequential test, do not demonstrate that there is deficiency in shopping provision which cannot be met within or on the edge of the City, District or Commercial Centres and cumulatively are likely to prejudice the vitality of the existing Centres. There are no material considerations to justify a decision contrary to the Plan.