

Proposed Mix Use Development At East Kingsway Works

KEY INFORMATION

Ward East End

Address

East Kingsway Works
Kingsway East, Dundee

Applicant

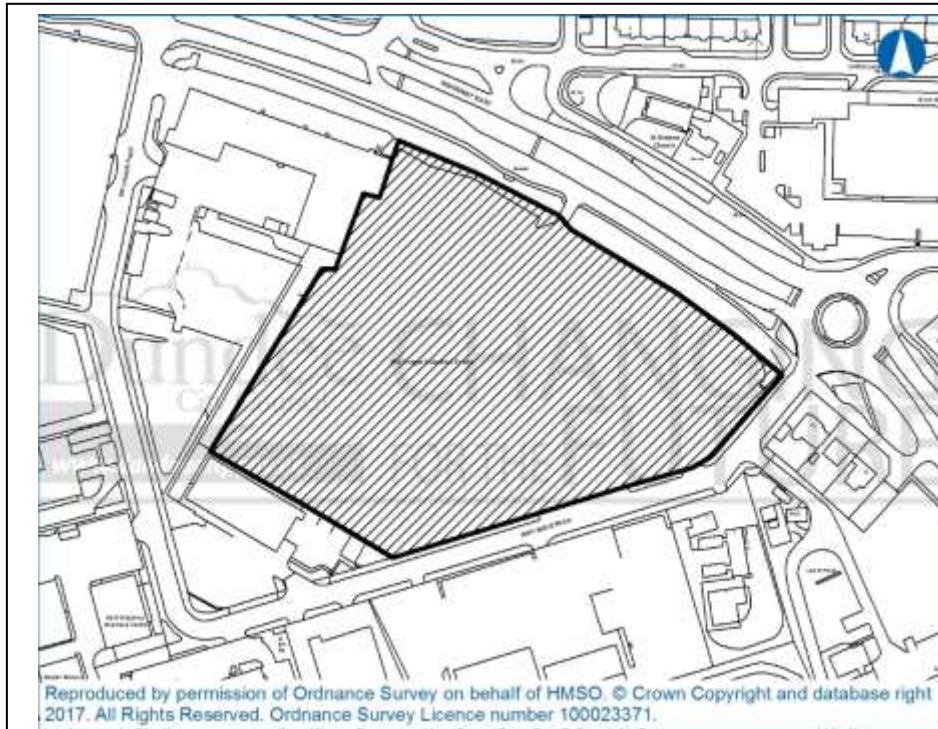
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Case Officer S Dorward



SUMMARY OF REPORT

- Planning permission in principle is sought for a mixed use development comprising a retail store, drive through coffee shop, pub/restaurant, car showroom and industrial units at Mid Craigie Industrial Estate.
- The proposed retail store, pub/restaurant and coffee shop within a General Economic Development Area are contrary to Policy 3 (General Economic Development Areas), Policy 4 (Ancillary Services within Economic Development Areas) and Policy 24 (Location of New Retail Developments) of the Adopted Dundee Local Development Plan, 2014.
- The statutory neighbour notification procedure was undertaken. Three letters of objection have been received.
- The proposal has also been advertised as a "bad neighbour" development, as listed within Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee as it constitutes a major development.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=OM55UBGCKWQ00>.

RECOMMENDATION

The proposal fails to meet Policies 3, 4 and 24 of the Dundee Local Development Plan. There are no material considerations of sufficient weight to justify approval of the application contrary to the provisions of the Plan. The application is therefore recommended for REFUSAL.

1 DESCRIPTION OF PROPOSAL

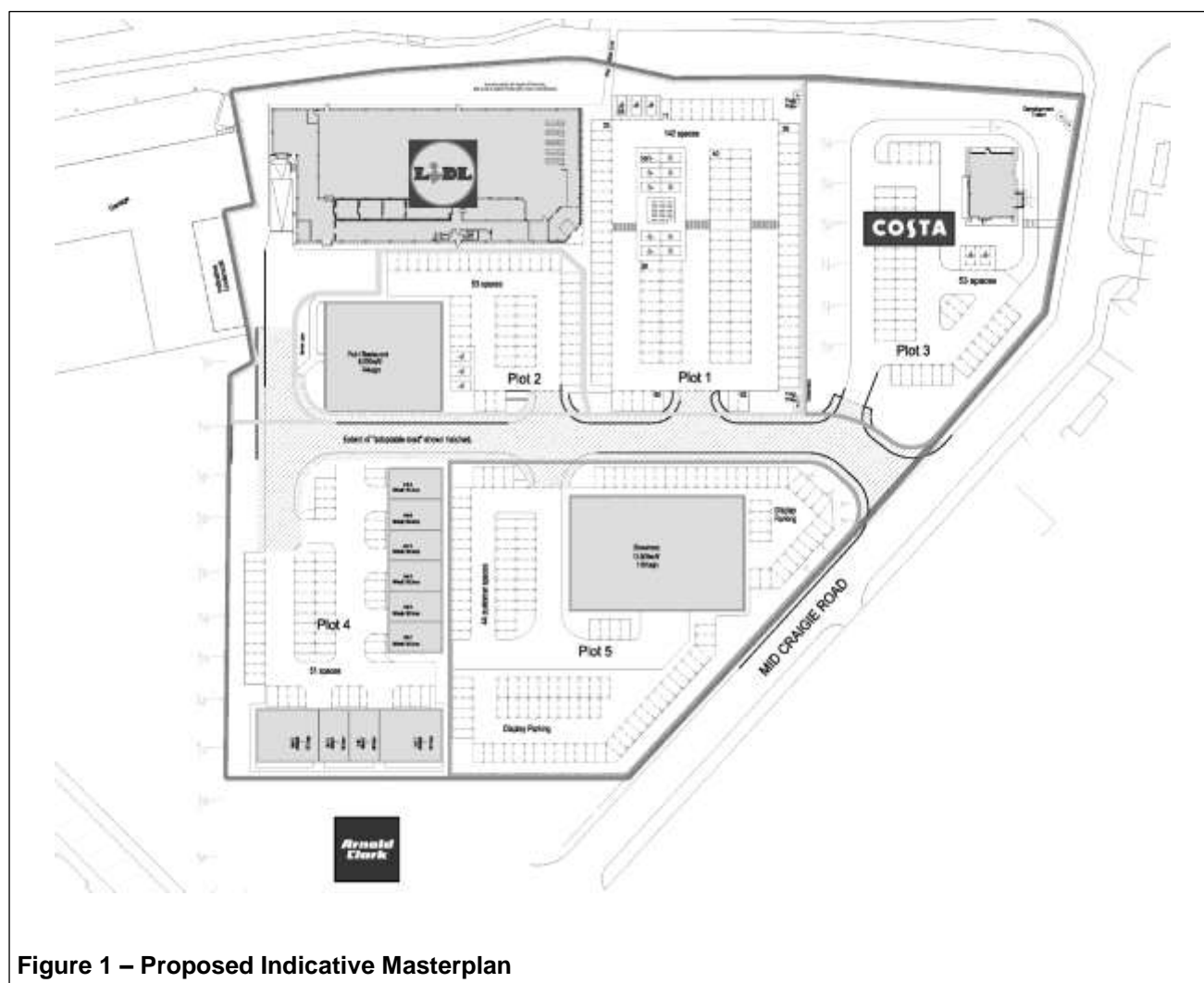


Figure 1 – Proposed Indicative Masterplan

- 1.1 The application seeks planning permission in principle for a mixed use development comprising a Class 1 retail outlet, a Class 3 coffee shop, a Class 3 restaurant, with sui generis ancillary public house, a sui generis car showroom and Class 4 and 5 industrial units. An indicative masterplan submitted with the application documents illustrates 5 separate plots within the application site boundary.
- 1.2 Plot 1 would measure 0.897 hectares and proposes a Class 1 retail unit with a footprint of approximately 2,400m² and 142 associated car parking spaces. Plot 1 would be located to the north of the application site adjacent to the Kingsway.
- 1.3 Plot 2 measures 0.257 hectares and proposes a restaurant/public house with a footprint of 744m². The restaurant would be located to the south of the retail unit.
- 1.4 Plot 3 measures 0.486 hectares and would comprise a drive through coffee shop with 53 car parking spaces. Plot 3 is also located adjacent to the Kingsway.
- 1.5 Plot 4 measures 0.390 hectares and proposes industrial units. Ten separate units and 51 car parking spaces are illustrated. Plot 4 would be located to the rear of the application site.

- 1.6 Plot 5 would measure 0.599 hectares and shows a car showroom, with a footprint of 1,161m² and surrounding display/customer parking.
- 1.7 Access to the site is proposed from Mid Craigie Road to the east of the site boundary.
- 1.8 As the application site exceeds 2 hectares, the proposals constitute a major planning application. The application is accompanied by a Pre Application Consultation (PAC) report. Documents submitted with the planning application include a planning statement, retail impact assessment, road transport assessment, marketing statement, flood risk assessment, drainage impact assessment, employment land report and air quality assessment.
- 1.9 In accordance with the Council's Scheme of Delegation, all Major Planning Applications must be reported to the Council's Development Management Committee.

2 SITE DESCRIPTION

- 2.1 The application site measures 2.85 hectares and is located to the east of Dundee immediately south of the A972 Kingsway East adjacent to the roundabout and access to the Kingsway East Retail Park. The site is situated within Mid Craigie General Economic Development Area as per the adopted Dundee Local Development Plan (2014). The site is bound by Mid Craigie Road to the south, west and east. The application site is level, open and visible from the Kingsway, and formerly accommodated a large factory building which closed in 2002. The factory buildings were ultimately demolished in 2006, the site was cleared and land contamination works undertaken. Surrounding adjacent land uses are largely industrial with residential, there are retail uses and a cemetery in close proximity to the application site.



Figure 2 – Site Photo



Figure 3 – Site Photo

3 POLICY BACKGROUND

- 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

DUNDEE LOCAL DEVELOPMENT PLAN

Policy 3: General Economic Development Areas

Policy 4: Ancillary Services within Economic Development Areas)

Policy 7: High Quality Design

Policy 24: Location of New Retail Developments
Policy 28: Public Houses, Restaurants and Hot Food Takeaways outwith the City Centre
Policy 29: Low and Zero Carbon Technology in New Development
Policy 42: Sustainable Drainage Systems
Policy 44: Air Quality
Policy 45: Land Contamination
Policy 47: Environmental Protection
Policy 54: Active Travel
Policy 55: Accessibility of New Developments
Air Quality and Land Use Planning Supplementary Guidance

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS

Scottish Planning Policy 2014

NON STATUTORY STATEMENTS OF COUNCIL POLICY

Dundee Retail Study 2015

- 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 Planning application 08/00313/FUL was permitted in September 2008 for the remediation of materials following the demolition of the existing buildings and re-profiling of the site.
- 4.2 Proposal of Application Notice 13/00202/PAN for the erection of a foodstore, pub restaurant, coffee drive through and employment land with associated car parking, access and landscaping was submitted and agreed in April, 2013.
- 4.3 Planning application 16/00476/FULL for the erection of a vehicle body repair workshop and associated parking area was approved in August, 2016, to the immediate south of the current application site.

5 PUBLIC PARTICIPATION

- 5.1 Three letters of objection have been received, including a letter from Dundee Civic Trust. The main concerns held are in relation to out of centre retail development, in an area already well served by food retail stores. Objections are also put forward in terms of loss of employment land. Concerns were raised in relation to the proposed drive through in terms of noise, litter and the attraction of seagulls, traffic congestion, industrial land and reduction in the value of neighbouring residential property.
- 5.2 Further issues raised are that there is no pedestrian crossing point to enable pedestrian flows across the A972 Kingsway East. It is also considered that the Retail Impact Assessment was prepared in January 2016 and should be updated.
- 5.3 These issues are fully addressed within the main body of the committee report.

6 CONSULTATIONS

- 6.1 **SEPA** – has no objection to the proposed development.

- 6.2 **Transport Scotland** – no comments received.
- 6.3 **The Head of Community Safety and Protection** – has advised in relation to contaminated land that the site has undergone a substantial contamination remediation scheme to ensure that the site would be up to the general standard expected for commercial developments. Each new development now proposed should consider the previously undertaken remediation strategy to ensure that they understand how this might relate to their particular plans. Should planning permission in principle be granted, a planning condition would be appropriate to ensure that the remediation would remain satisfactory for the proposed use. In relation to noise control, it is suggested that restrictions should be applied to any planning permission granted with regard to M&E along with a restriction on trading hours and delivery times. In terms of air quality, the overall impact of the development traffic is assessed to be insignificant. The assessment has not considered any impacts associated with the construction phase of the development, the applicant should also indicate whether suitable mitigation measures would be implemented.

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.

APPROVED TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012-2032

- 7.2 **Policy 3: Protecting TAYplan's Assets** - requires participating authorities to identify and safeguard at least 5 years supply of employment land within principal settlements to support the growth of the economy and a diverse range of industrial requirements.
- 7.3 The aspirations of Policy 3 are satisfied by Policy 3 (General Economic Development Areas) of the Dundee Local Development Plan which safeguards land allocated for general economic development for uses falling within Classes 4, 5 or 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and uses of a wider industrial nature only.
- 7.4 The assessment of the proposed development against Policy 3 of the Adopted Local Development Plan below concludes that this policy is contravened. It is considered that the scale of development proposed would adversely impact on the supply of employment land within Dundee. The substantial site is located in a prime position adjacent to the road network and close to the port, presenting a unique location to provide for potential growth in decommissioning and also offshore wind. The site should therefore be retained as an important part of the 5 year supply of employment land.
- 7.5 **The proposed development therefore does not comply with the requirements of Policy 3.**

DUNDEE LOCAL DEVELOPMENT PLAN 2014

- 7.6 **Policy 3: General Economic Development Areas** - supports proposals for Class 4, 5 and 6 developments. Other uses of a wider industrial nature such as car showrooms, wholesaling and scrap yards may be permitted provided:
- there would be no detrimental impact on neighbouring uses and residential amenity;
 - there would be no unacceptable traffic impact; and
 - the scale of development would be appropriate to the location of the application site.
- 7.7 Other uses with General Economic Development Areas will not be supported.
- 7.8 The application proposes a mixed use development comprising Class 1 retail, Class 3 food and drink, sui generis public house, car showroom uses and Class 4, 5 or 6 industrial uses. The Class 1 retail, Class 3 food and drink and a sui generis public house uses fall outside those considered as acceptable in terms of Policy 3 and would not be supported within a General Economic Development Area. The car showroom could be permitted subject to meeting the required criteria of Policy 3. The proposed Class 4, 5 and 6 uses would be in accordance with the provisions of Policy 3. However, notwithstanding the element of class 4, 5 and 6 uses proposed, a significant element of the overall development would not be in accordance with the provisions of Policy 3. The development as proposed would be considered to be contrary to Policy 3.
- 7.9 **The proposal contravenes Policy 3.**
- 7.10 **Policy 4: Ancillary Services Within Economic Development Areas** - supports land uses, such as catering facilities, within Economic Development Areas where the proposals can demonstrate they meet the needs of employees and complement existing business uses.
- 7.11 It is considered in this case that the proposed retail foodstore, public house/restaurant and drive through coffee shop would not be ancillary to the Mid Craigie General Economic Development Area. The indicative site plan illustrates the retail unit and drive through coffee shop situated adjacent to the Kingsway, which would maximise visibility. This and the scale of the proposal with 195 car parking spaces for the retail unit and coffee shop indicates that the development is aimed at attracting customers from the wider area as opposed to supporting local employees from within the Mid Craigie General Employment Area. Similarly the development of a pub/restaurant would provide a facility for customers from a significantly wider catchment area than just employees, generating traffic and footfall from a wider area.
- 7.12 **The proposal contravenes Policy 4.**
- 7.13 **Policy 7: High Quality Design** - requires all development to contribute positively to the quality of the surrounding environment, with reference to climate change adaptation. The design and siting of development should respect the character and amenity of the place and improve connectivity. Proposals should also incorporate new landscape and planting works appropriate to the development. Proposals should also:
- consider and respect site topography and any surrounding landmarks, views or skylines;
 - contribute to a sense of identity by developing a coherent structure of streets, spaces, and buildings that are accessible and respect the existing building lines;

- the design should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours;
- existing buildings, streets and spaces should create safe accessible inclusive places for people which are easily navigable particularly on foot, bicycle and public transport and designed with future adaptability in mind; and
- existing buildings, structures and natural features that contribute to the local townscape should be retained and sensitively integrated into proposals.

7.14 In this case, the application is for planning permission in principle and design details are currently unknown. It is considered that an appropriate design could be developed with the submission of an application for the approval of matters specified in conditions.

7.15 **The proposal could satisfy Policy 7 subject to the submission of additional details.**

7.16 **Policy 24: Location of New Retail Development** - states new retail developments will only be acceptable where it can be established all of the four criteria of Policy 24 are met. The application proposes a Class 1 retail unit with a footprint of approximately 2,400m² and 142 associated car parking spaces, to be located to the north of the application site adjacent to the Kingsway. This is assessed under the following Policy 24 criteria below:

- 1 No suitable site is available in the first instance, within the City Centre or District Centres, then edge of centre and Commercial Centres identified in the Local Development Plan.

7.17 The Class 1 retail store is proposed as a discount foodstore with a floorspace of 2,230 square metres and net sales floor area of 1,424 square metres, primarily selling convenience goods with a limited offering of comparison goods. In terms of sequential approach, the report states that careful consideration has been given to other locations but that there are no suitable sites available within the timescale required by the developer. The retail impact assessment is dated January 2016 and does not include an assessment of any alternative sites considered at that time, in order to demonstrate that no alternative sites, which would be preferable in terms of the sequential approach, would be able to accommodate the development.

7.18 The applicant has submitted a retail impact assessment with the planning application which has failed to demonstrate that there are no suitable sites available within the City Centre or any District Centre to accommodate the proposed Class 1 retail development. There are vacant units in existing identified centres which are potentially able to accommodate the proposal.

7.19 **The proposal is contrary to criterion 1.**

- 2 Individually or cumulatively the proposal would not prejudice the vitality or viability of the City Centre, District Centres or Commercial Centres.

7.20 The retail impact assessment states that the retail unit would provide a local shopping facility and as such is unlikely to have a harmful effect upon the City Centre or District Centres. An analysis is presented which predicts an insignificant impact on the existing convenience goods shops elsewhere within the immediate vicinity of the application site and closest District Centres. It is considered in this case that it is unlikely that a store of size proposed would draw sufficient trade from any existing centre to undermine its vitality and viability, however it would be drawing trade from a range of individual retailers in existing centres and could undermine their vitality and viability. It is also the use class which is assessed, and in the longer term an alternative Class 1 use may occupy the store with a wider impact on existing

stores. Due the high visibility of the proposed retail store, it is also considered that a high proportion of passing trade would be generated.

7.21 The proposal does not comply with Criterion 2.

3 The proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres.

7.22 The retail impact assessment considers that the food discount store would address a deficiency within the local area, but conversely states that it would increase consumer choice and competition, supporting social inclusion. There are a number of similar shops and services within the vicinity of the application site which serve the needs of the local areas and passing traffic. These include Asda at Kingsway East Retail Park, and Aldi within the local parade on Arbroath Road, and various other locations adjacent to the Kingsway. The area is already well served by a variety of existing retail stores including supermarkets and a 'discount' offering, no deficiency exists at present.

7.23 The proposal does not comply with Criterion 3.

4 The site is readily accessible by modes of transport other than the car.

7.24 The site is located more than 400 metres from any bus route, the closest stops being on Longtown Road or Arbroath Road. The site is within walking distance of housing in the surrounding area, however there is no pedestrian crossing over the A972 Kingsway East adjacent to the site and no local cycle route which connects to the development site. The application does not therefore meet the requirements of criterion 4.

7.25 The proposal is contrary to criterion 4.

7.26 The proposal therefore fails to comply with the criteria set out in Policy 24.

7.27 **Policy 28: Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre** - supports public houses, restaurants and hot food takeaways if the proposal is more than 30 metres from existing or proposed housing, where the premises has a gross floor area of up to 150m². If the floor area would be over 150m², a 45 metre separation would be required from the curtilage of the proposal to the facade of any existing or proposed houses. Proposals which do not meet these requirements may be permitted subject to a restriction on opening times and a restriction to cooking methods, imposing the use of a microwave oven or similar.

7.28 In this case, the gross floor area of the unit which forms the application site would be in excess of 150m². The nearest houses are over 100 metres to the east on Myrekirk Terrace. The proposal therefore meets the requirements of Policy 28 and would not impact upon any existing or proposed housing.

7.29 The proposal meets the requirements of Policy 28.

7.30 **Policy 29: Low and Zero Carbon Technology** - in New Development requires that, for specified developments, carbon emissions will be reduced. A statement is required to demonstrate that 15% of carbon emission reduction standards set by the Scottish Building Standards (2007) will be met through the installation and operation of low and zero-carbon generating technologies.

7.31 Should members be minded to grant planning permission then this requirement could be addressed through a condition, to ensure that a statement would be submitted in accordance with the terms of Policy 29.

- 7.32 **Subject to a condition the proposal would satisfy Policy 29.**
- 7.33 **Policy 42: Sustainable Drainage Systems** - requires surface water treatment by sustainable urban drainage to specified standards in relation to floor level, flood risk and water enhancement. A Sustainable Urban Drainage System (SUDS) should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300mm below floor level. Proposals are encouraged to adopt an ecological approach.
- 7.34 A Drainage Impact Assessment has been submitted with the application documents which illustrates that an integrated and sustainable drainage system could be achieved for the development. Preliminary designs and calculations, employing a system of surface water storage tanks and flow controls, demonstrates that it would be possible to safely develop the site. Appropriate planning conditions would be required to ensure a suitable scheme.
- 7.35 **Subject to planning conditions, the proposal could comply with Policy 42.**
- 7.36 **Policy 44: Air Quality** - states that there is a general presumption against development proposals that could significantly increase air pollution or introduce people into areas of elevated pollution concentrations unless mitigation measures are adopted to reduce the impact to levels acceptable to the Council. The Council's latest Air Quality Action Plan sets out current objectives and actions to help improve air quality. Planning applications that have the potential to be detrimental to air quality, or those which introduce new exposure to areas of existing poor air quality should be accompanied by an air quality assessment of the likely impact of the development. Supplementary Guidance to the Dundee Local Development Plan (2014) on Air Quality and Land Use Planning has been produced to determine when an assessment of potential impact is required.
- 7.37 An air quality assessment has been submitted which considers the potential impacts of any vehicles which are estimated to be generated by the operating development on local air quality. The Planning for Air Quality guidance has been followed by the developer and the overall impact of the development traffic on air quality is assessed to be insignificant. However, the report is unclear with regard to the implementation of suitable mitigation measures and the assessment has not considered impacts on air quality associated with the construction phase of the development. Should members be minded to grant planning permission, conditions should be attached requiring a construction dust assessment, incorporation of electric vehicle charging points and details of the proposed means of heat and emergency power to buildings. An air quality assessment may be required depending on the size, location and fuel type of any combustion appliances.
- 7.38 **Subject to planning conditions, the proposal could satisfy the terms of Policy 44.**
- 7.39 **Policy 45: Land Contamination** - states that the development of potentially contaminated brownfield or statutorily identified contaminated land will be considered where:
- a site investigation is submitted establishing the nature and extent of contamination; and
 - the Council is satisfied that remediation measures proposed for the development would adequately address contamination risks.
- 7.40 In this case, the application site has undergone a substantial contamination remediation scheme under planning application 08/00313/FUL, to ensure that the site is prepared to be the general standard expected for commercial developments. One of the conclusions of this work was that each new development should consider the previous remediation strategy, and ensure that the strategy would relate to new plans. In this case planning conditions would

ensure that any new development would remain in keeping with the remediation strategy, and that any additional remediation measures which are identified as required would be imposed.

- 7.41 **Subject to planning conditions, the proposal could satisfy Policy 45.**
- 7.42 Policy 47 Environmental Protection requires that all new development that would generate noise, vibration or light pollution is required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New development in close proximity to existing sources of noise, vibration or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on the viability of existing businesses or uses.
- 7.43 In this case, no information has been provided regarding noise from the site or proposals for noise controls. Due to the location of the site adjacent to the Kingsway, the potential impact of noise on the residents of the adjacent housing would be during the evening and night time hours. Planning conditions would be required should members be minded to grant planning permission, to ensure that a general restriction with regard to M&E during night time hours would be applied along with a restriction on trading hours and delivery times. This would be applied either to the site as a whole or to the individual units.
- 7.44 **Subject to the addition of planning conditions, the proposal could satisfy Policy 47.**
- 7.45 **Policy 54: Active Travel and Policy 55: Accessibility of New Developments** - require all developments to consider ease and safety of pedestrian access and access to public transport over all other modes of transport. Proposals should also comply with Dundee City Council's road standards.
- 7.46 A Transport Assessment has been submitted with the application. There are several inaccuracies with the statement. These are that there is no local cycle route, the Kingsway is in fact viewed as a major barrier to cycling both across and along its length. Additionally, the Transport Assessment states that there are bus stops within one minute walk of the development site. While this is the case, the level of service to these bus stops at 1 bus per hour cannot be seen as sufficiently regular to serve a development of this type. The accepted maximum walking distance between a proposed development and bus stops is 400 metres and the walking distance to stops on Arbroath Road, where there are regular bus services, is beyond this distance. The provision of public transport within walking distance of this site does not meet the required standard.
- 7.47 With regard to parking, while the total development would not exceed the maximum recommended parking level, elements within the development would exceed the individual use requirements, which is not acceptable. Disabled parking and electric charging bays must also be provided. Further information is also required in relation to a footway to link Mid Craigie Road to existing footways on the Kingsway, and further details in relation to existing accesses, street lighting, bin store location and sustainable road drainage.
- 7.48 The development has not been designed to minimise the need to travel by private car, the location of bus stops with a regular service would be at a distance of more than 400 metres from the centre of the development. The proposals do not therefore comply with Policies 54 and 55.
- 7.49 **The proposal therefore fails to comply with the criteria set out in Policies 54 and 55.**
- 7.50 **It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.**

OTHER MATERIAL CONSIDERATIONS

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

A - NATIONAL POLICY AND GUIDANCE

- 7.52 Scottish Planning Policy (SPP), 2014, highlights that the overarching aim of achieving sustainable economic growth through the planning system is to achieve the right development in the right place. It is within this context that Members should note that the application site is located within a designated General Economic Development Area, safeguarded by the adopted Dundee Local Development Plan for uses falling within Classes 4, 5 or 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, and other uses of a wider industrial nature. The approval of this application and construction of the proposal would prevent the development of this prominent site for permissible industrial uses.
- 7.53 The SPP states that the planning system should allocate sites that meet the diverse needs of sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities. Local development plans should allocate a range of sites, taking account of current market demand, location, size, quality and infrastructure requirements.
- 7.54 The SPP stipulates that the sequential approach should be used when selecting locations for all retail and commercial leisure uses unless the development plan identifies an exception. The SPP also emphasises that the sequential approach requires flexibility and realism from planning authorities, developers, owners and occupiers to ensure that different types of retail and commercial uses are developed in the most appropriate location. Where development proposals in edge of town centre, commercial centre or out of centre locations are not consistent with the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing centres is acceptable.
- 7.55 The Scottish Government's Town Centre First Principle encourages Councils to invest in City Centres and help communities thrive. It states that "centres are a key element of the economic, social and environmental fabric of Scotland's towns; often at the core of community and economic life, offering spaces in which to live, meet and interact, do business, and access facilities and services."
- 7.56 The principle requests that "Government, local authorities, the wider public sector, businesses and communities put the health of town centres at the heart of proportionate and best value decision making, seeking to deliver the best local outcomes regarding investment and de-investment decisions, alignment of policies, targeting of available resources to priority town centre sites, and encouraging vibrancy, equality and diversity."
- 7.57 The applicant has not provided an assessment of alternative sites. The proposal for a retail foodstore, drive through coffee shop and pub/restaurant outside an existing centre will generate a greater travel demand than if the proposals were within an existing centre. The proposals also miss an opportunity to increase footfall and enhance the vitality of existing centres.
- 7.58 The proposed Class 1, Class 3 and sui generis use on an out-of-centre site goes against the Town Centres First Principle and would encourage members of the public from the wider area to visit the site. It would not encourage people to visit the City Centre, District Centres of Commercial Centres in the same way that such a use would if it were located elsewhere.
- 7.59 The proposal does not comply with the Scottish Planning Policy 2014 in terms of the town centres first approach.

B - APPLICANT SUPPORTING INFORMATION

- 7.60 A pre-application report, planning statement, road transport assessment, retail impact assessment, employment land report, marketing statement, flood risk assessment, drainage impact assessment, air quality assessment and proposed masterplan accompany the application. The content of the road transport assessment, flood risk assessment, drainage impact assessment, and air quality assessment have been assessed against the requirements of the development plan in the observations section above.
- 7.61 The Pre-Application Consultation (PAC) report submitted is dated January 2017, however the public consultation exercises were undertaken in May 2013 and September 2015. No further consultation event has taken place aside from that undertaken by the proposed retail operator. The PAN process does comply with the requirements of the Town and Country Planning (Scotland) Act 1997 as amended, although somewhat dated. General support was expressed for the proposals at that time.
- 7.62 The planning statement submitted with the application documents and dated February, 2017, concludes that the employment and car showroom uses are in accordance with all relevant development plan policies and considers the drive through coffee shop to be an ancillary service in compliance with Policy 4.
- 7.63 It is acknowledged that the retail foodstore and pub/restaurant would not comply with the development plan, but it is claimed that a departure from the local development plan would be justified in this instance as these elements would occupy less than 50% of the site, and would also give commercial viability for the proposals. The planning statement estimates that the development would generate
- £6.9m of capital investment;
 - 115 jobs in the short term; and
 - 172 jobs would be sustained in the longer term.
- 7.64 The planning report states that a departure is justified on the basis of returning an “eyesore” site to a productive use, the site has been marketed for 13 years. The report goes on to state that the proposal would generate investment and address a qualitative need for discount shopping in the area.
- 7.65 It is accepted that the application is for planning permission in principle, however no specific details of employment have been provided in order to support the principle of development. It is not possible to comment on or predict potential employment figures within the proposed Class 4, 5 or 6 uses, and there is no mechanism proposed to ensure that jobs would not be displaced from elsewhere. It is considered that insufficient evidence has been presented in terms of job creation to justify a departure from the requirements of Policies 3, 4 and 24.
- 7.66 The applicant considers that the drive through Class 3 coffee shop would be an ancillary use within the General Employment Area and in compliance with Policy 4. It is concluded, however, that the information submitted with the application has not demonstrated that the proposals would be aimed at meeting the needs of employees within the Economic Development Area.
- 7.67 The employment land report, dated January 2017, states that Dundee has 158.16 hectares of marketable employment land which equates to 142 years' supply. The current application site measures 2.85 hectares, accounting for 2% of this total. It is put forward that Dundee has a significant stock of existing employment premises available and that mixed-use proposals

offer an early opportunity to secure regeneration of the site. The loss of employment land is justified within the application documents by the predicted level of capital investment and job creation.

- 7.68 It is considered in this case that the application site provides a high quality location which is highly visible and accessible to a potential workforce. The maintenance of a good range of available sites within Dundee is required to actively assist economic development. The proposed retail unit, pub/restaurant and coffee shop would adversely impact upon the level of available employment land within the city. The marketing report submitted with the application documents records that marketing of the site, following clearance, began in November 2008. A sale for land to the south of the site was concluded in 2009 to Arnold Clark, marketing of the remainder of the site has since continued. Dundee requires to maintain a generous and varied supply of land, requirements are likely be for a variety of uses from business to heavy engineering. The exact needs of businesses are changing, as technology and processes are constantly evolving. The application site presents a unique, flat and accessible employment site located in a prime position adjacent to the road network and close to the port, providing potential for any future growth in decommissioning and offshore wind opportunities.
- 7.69 The retail impact assessment submitted with the application documents concludes that the application demonstrates that the proposed development would be in accordance with retail and town centre policies of the Development Plan and wider Scottish Planning Policy. As discussed in detail earlier within the report, it is considered that the application does not comply with Policy 24 of the adopted Dundee Local Development Plan, or national planning policy. The application fails to demonstrate compliance in terms of sequential testing, the impact of a Class 1 use outside the City Centre or a District/Commercial Centres, any deficiency in shopping provision or accessibility.
- 7.70 A Supplementary Statement dated May 2017 has been submitted to re-affirm the applicant's case. Additional public consultation has been undertaken by the retail operator, however this did not form part of the formal pre-application consultation process. The supplementary statement considers that the designation as a General Employment Area is a "tier 3" designation and the least important employment land. It is also re-stated that the drive through coffee shop would comply as an ancillary use for the workforce within the area, and that the retail store and pub/restaurant are justified as they would occupy less than 50% of the total site area and are required to attract investment and support the proposed employment uses on the site. It is anticipated that the retail store would generate up to 40 jobs, which would be paid at a higher rate than elsewhere in Dundee.
- 7.71 The supplementary statement re-affirms the applicant's position, however it remains the case that the planning application does not accord with policies 3, 4 or 24 of the adopted Dundee Local Development Plan, in that the Class 1 retail and Class 3 uses proposed are not supported within the employment area and no satisfactory justification for setting aside the terms of the development plan has been put forward.

C - VIEWS OF OBJECTORS

- 7.72 Three letters of objection have been received, including a letter from Dundee Civic Trust. The main concern held by the Civic Trust is in relation to out of centre retail development, where the 2015 Retail Study advises that any further retail development should be directed towards supporting existing centres. The Civic Trust consider that any additional jobs would be negated by retail jobs lost elsewhere, and that the area is already well served by nearby food retail stores. There is no pedestrian crossing point to enable pedestrian flows across the A972 Kingsway East.

- 7.73 A letter of objection has also been received on behalf of Asda Stores Limited, to the food retail element of the proposal. It is stated that the proposed store would be replicating an offer already available within the catchment area, and that regardless, it is the use class which should be considered rather than the identity/calibre of the operator. It has not been demonstrated that a sequentially preferable site is not available. It is also considered that the Retail Impact Assessment was prepared in January 2016 and should be updated. The objection also considers that the proposal is contrary to Policy 3 in terms of loss of high quality employment land, and that the quality of the employment land should be taken into consideration when considering setting aside an adopted allocation.
- 7.74 A neighbour to the development site has raised objections in relation to the proposed Class 3 drive through in terms of noise, litter and the attraction of seagulls, traffic congestion, industrial land and reduction in the value of neighbouring residential property. House values are not a material planning consideration
- 7.75 These issues are fully addressed within the main body of the committee report, and demonstrate that insufficient justification has been put forward to allow a departure to the Development Plan. .
- 7.76 The concerns of the objectors are supported.
- 7.77 **It is concluded from the foregoing that the material considerations do not support the approval of planning permission.**

8 CONCLUSION

- 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.

9 RECOMMENDATION

- 9.1 It is recommended that consent be REFUSED for the following reason:
- 1 The development, in proposing a foodstore, pub/restaurant, and drive through coffee shop (Class 1, Class 3 and sui generis use) at Mid Craigie Industrial Estate, is contrary to Policies 3, 4 and 24 of Dundee Local Development Plan. The site is designated as a General Economic Development Area where only uses within Class 4, 5 and 6 and those with a wider industrial nature are supported. The proposed foodstore, pub/restaurant and coffee shop would not support the function of the existing General Economic Development Area. The proposal for an out of centre Class 1 and Class 3 use would not protect the vitality and viability of Dundee's City Centre, District Centres, or Commercial Centres. There are no material considerations that would justify approval of the application contrary to the approved and adopted Development Plan.