

# Proposed Erection of 3 Mixed Use Units and Childrens Day Nursery

## KEY INFORMATION

**Ward** Lochee

### Address

Land to South of Kinnoull Road, Broomhill Road  
Dunsinane Industrial Estate

### Applicant

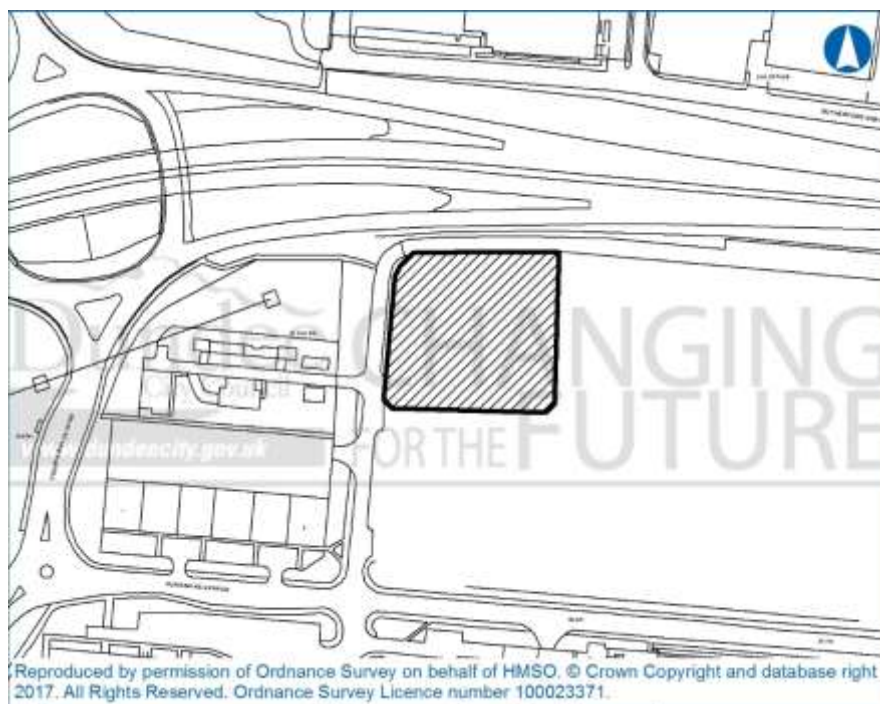
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### Agent

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**Registered** 17 March 2017

**Case Officer** S Dorward



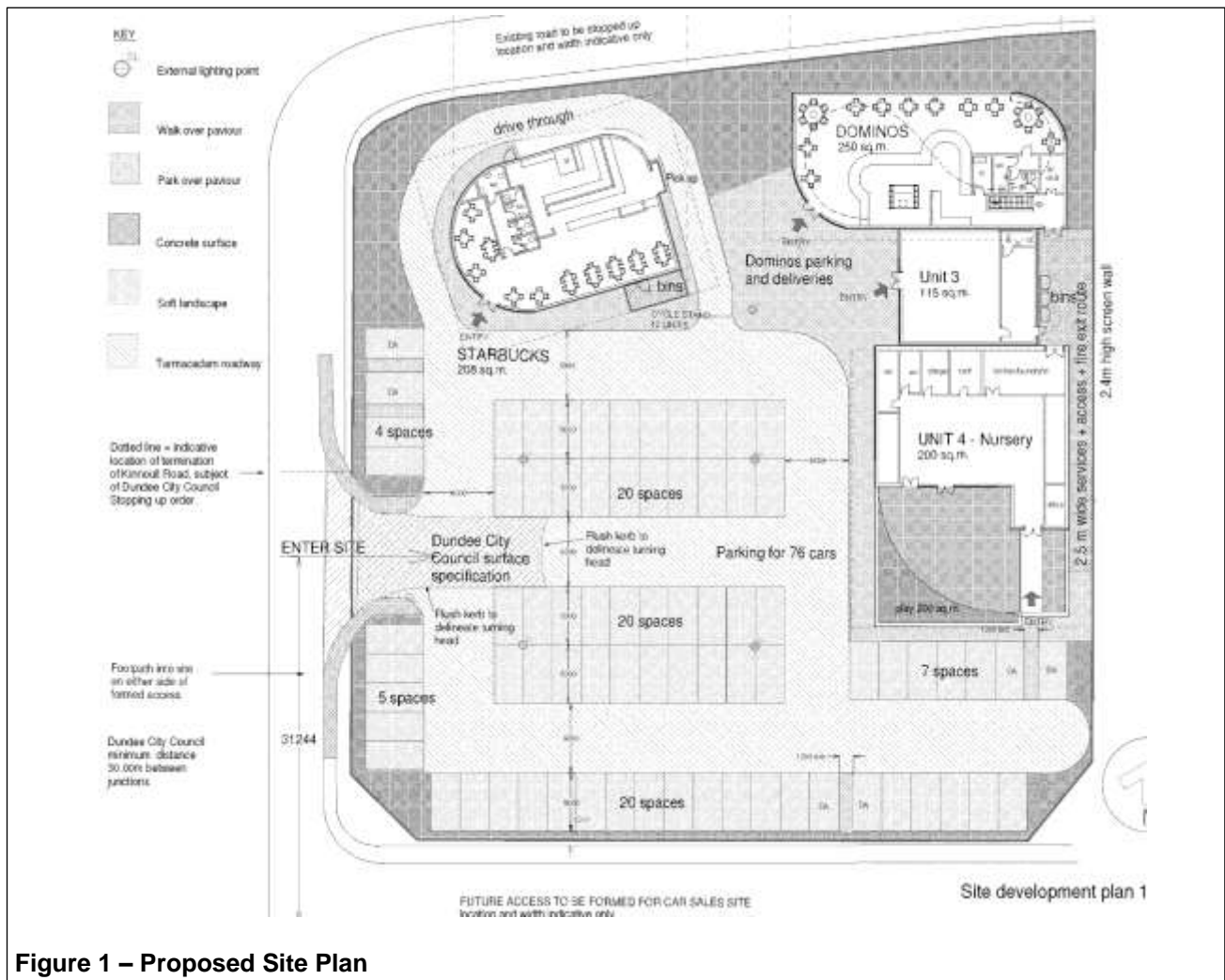
## SUMMARY OF REPORT

- Planning permission is sought for a mixed use development comprising a drive through coffee shop, restaurant/take away, speculative Class 3 use and children's nursery at Dunsinane Industrial Estate.
- The proposed restaurant/takeaway, drive through coffee shop, speculative Class 3 unit and children's nursery within a Principal Economic Development Area are contrary to Policy 1 (Principal Economic Development Areas), Policy 4 (Ancillary Services within Economic Development Areas) and Policy 18 (Private Day Nurseries) of the adopted Dundee Local Development Plan, 2014.
- The statutory neighbour notification procedure was undertaken. No representation letters have been received.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee at the request of an elected Member.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=ODE46YGCFXA00>.

## RECOMMENDATION

The proposal fails to meet Policies 1 and 4 of the adopted 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 Site Plan**

- 1.1 Planning permission is sought for the erection of 3 units to comprise a mix of a Class 3 restaurant/takeaway, Class 3 drive through coffee shop, speculative Class 3 unit and Class 10 children's day nursery. The proposed site plan illustrates:
- a Class 3 drive through coffee shop covering 208m<sup>2</sup>;
  - a Class 3 restaurant and sui generis take away with delivery service, with a footprint of 250m<sup>2</sup>;
  - a Class 10 children's day nursery over an area of 200m<sup>2</sup> with an additional 200m<sup>2</sup> of outdoor play space, located to the south east of the application site boundary; and
  - a further Class 3 unit with no specified end user. Unit 3 is located to the south of the proposed restaurant, with a footprint of 115m<sup>2</sup>.
- 1.2 The units are designed as simple rectangular structures with a high level of glazing. The units would be built to a maximum height of 6 metres, external finishes are proposed as blue facing brick and glazed curved screens with single ply membrane flat roofs and hardwood panelling at entry doors.

- 1.3 A total of 76 car parking spaces are proposed, two of which are for disabled access. Access to the site is proposed from Broomhill Road to the west of the site boundary.
- 1.4 Documents submitted with the planning application include a design statement, transportation statement, planning statement, land contamination validation report, list of current employers within the Dunsinane Industrial Estate and letters of support from prospective occupiers of the proposed units.

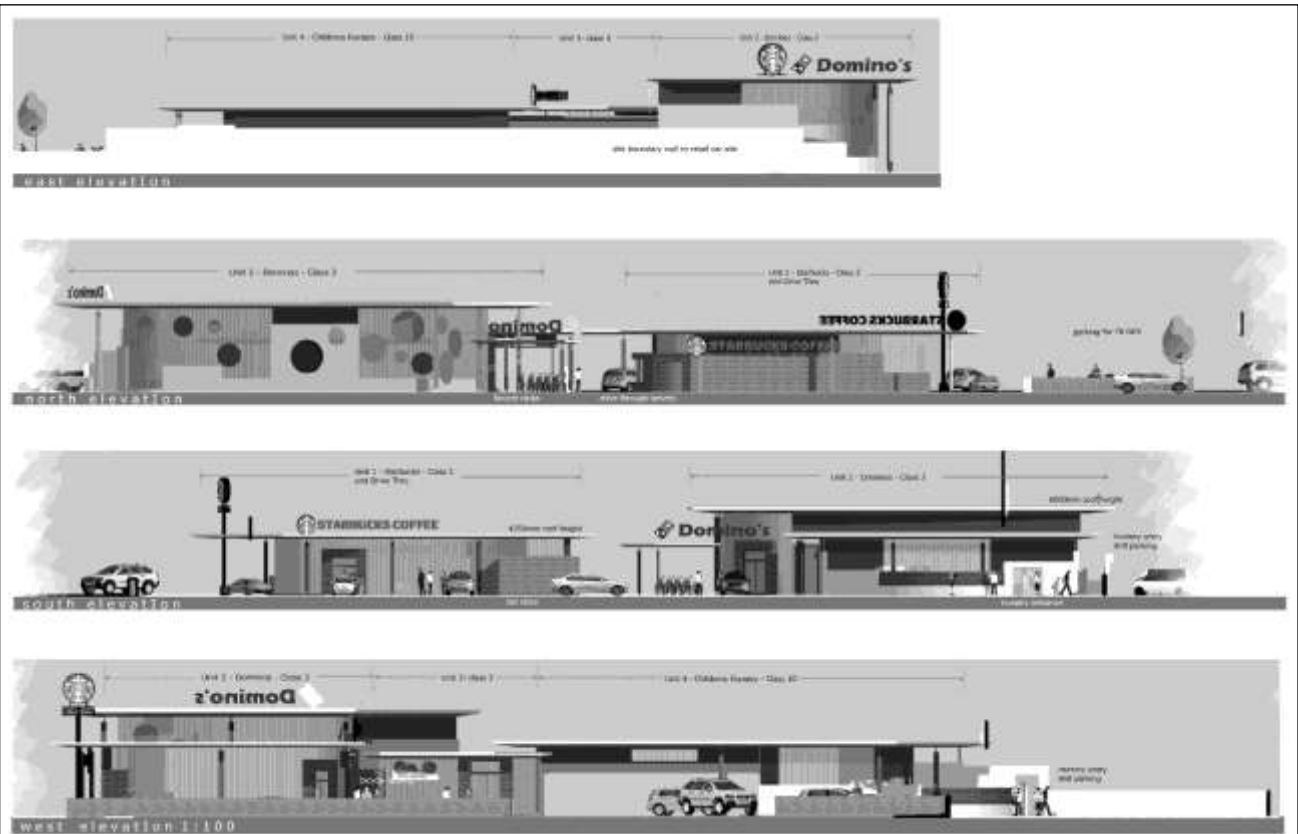


Figure 2 – Proposed Elevations

## 2 SITE DESCRIPTION

2.1 The application site measures 2,500m<sup>2</sup> and is located to the north west of Dundee immediately south of the A90 Kingsway West. The site is situated within Dunsinane Principal Economic Development Area. The application site is level forming the north west corner of the former Valentine's site. Surrounding land uses are largely industrial with the new car showroom situated to the east.



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**

Priority 3: Managing TAYplan's Assets

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

Policy 1: Principal Economic Development Areas

Policy 4: Ancillary Services within Economic Development Areas

Policy 7: High Quality Design

Policy 18: Private Day Nurseries

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

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 12/00367/PPPM for a mixed use development comprising business use, wholesale cash and carry, a sui generis car showroom, public house, restaurant and hotel with associated parking and landscape works was recommended for refusal and approved by committee in October 2012.

4.2 Planning permission was granted under application 15/00908/FULM for the construction of a new car dealership in April 2016.

4.3 Planning application 16/00763/FULL for the erection of 3 Class 3 units with drive through and take away facilities and the erection of a children's day nursery was withdrawn in March 2017 to allow the consideration of further information by the applicants.



**Figure 4 – Site Photo**

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## 5 PUBLIC PARTICIPATION

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- 5.1 The statutory neighbour notification procedure has been undertaken and the planning application was advertised in the Dundee Evening Telegraph. No letters of objection have been received.

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## 6 CONSULTATIONS

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- 6.1 **Transport Scotland** – has no objections
- 6.2 **The Head of Community Safety and Protection** – has recommended that conditions are appended to any planning permission granted in relation to verification for contaminated land. In terms of air quality it is recommended that conditions are required to determine whether an air quality assessment is required and to ensure appropriate mitigation. Residential properties are located at considerable distance from the application site, so no noise conditions are required.

## 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

- 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 1 (Principal Economic Development Areas) of the Dundee Local Development Plan which safeguards land allocated for principal economic development for uses falling within Classes 4, 5 or 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 only.
- 7.4 The assessment of the proposed development against Policy 1 of the adopted Dundee Local Development Plan 2014 below, concludes that the policy would be contravened on the grounds of the non-conforming uses proposed. However given the quantity of employment land that would be lost in this case, it is considered that this would not undermine the ability to maintain a 5 year supply of employment land within the City.
- 7.5 **The proposed development complies with the requirements of Policy 3.**

### DUNDEE LOCAL DEVELOPMENT PLAN

- 7.6 **Policy 1: Principal Economic Development Areas** - safeguards areas designated as Principal Economic Development Areas for uses falling within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.
- 7.7 The proposed development is for a mix of uses comprising a Class 3 restaurant/takeaway, a Class 3 drive through coffee shop, a Class 10 children's nursery and a Class 3 speculative unit. All of the uses proposed as part of this development would fall outside those that are considered acceptable within a Principal Economic Development Area as set out in Policy 1. The development is therefore contrary to the provisions of Policy 1.
- 7.8 **The proposal contravenes Policy 1.**
- 7.9 **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.
- 7.10 It is considered in this case that the proposed restaurant/takeaway and drive through coffee shop are of a scale and nature that would not be ancillary to Dunsinane Principal Economic Development Area. The site plan illustrates that the restaurant/takeaway and drive through coffee shop would be situated in close proximity to the Kingsway, which would maximise visibility. In addition, the proposal would provide 76 car parking spaces. This suggests that the development is aimed at attracting visiting customers from a wider area rather than supporting local employees from within the Dunsinane Principal Employment Area. There is also an existing children's nursery on Dunsinane Avenue within the industrial estate, and additional nursery provision to the north and south of the principal economic development area. Ancillary provision is therefore already in place.
- 7.11 **The proposal contravenes Policy 4.**
- 7.12 **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.
- 7.13 The units are designed as simple rectangular structures with a high level of glazing. The coffee drive through and restaurant/takeaway would be located adjacent to the Kingsway with the speculative Class 3 unit and nursery to the south of the site behind these units.

- 7.14 In this case, the development would meet these criteria and respect the surroundings in terms of height, scale and finish, given the setting within an industrial estate.
- 7.15 **The proposal would comply with Policy 7.**
- 7.16 **Policy 18: Private Day Nurseries** - supports proposals for private day nurseries where:
- attractive and outdoor play space would be provided as 100m<sup>2</sup> per 10 children, with 5 additional square metres for each additional child;
  - Staff parking is provided as one space per every 3 members of staff;
  - drop off provision is made where on street parking restrictions exist; and
  - the nursery would be situated predominantly on the ground floor.
- 7.17 The proposed site layout illustrates that the development would meet standards in relation to space requirements, however there is no reference to a safe drop off/pick up facility associated with the proposed nursery. Concerns are held that the dropping off of children would take place within a busy car park with no separation of vehicles. It is not considered that a high quality development would result given the proposed surrounding land uses and the high level of traffic anticipated.
- 7.18 **The proposal does not satisfy Policy 18.**
- 7.19 **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 meters from existing or proposed housing, where the premises has a gross floor area of up to 150m<sup>2</sup>. If the floor area would be over 150m<sup>2</sup>, 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.
- 7.20 In this case, the nearest houses are located over 200 metres to the west of the application site on Langshaw Road. The proposal therefore meets the requirements of Policy 28 and would not impact upon any existing or proposed housing, however these land uses are normally directed to existing centres.
- 7.21 **The proposal meets the requirements of Policy 28.**
- 7.22 **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.
- 7.23 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.
- 7.24 **Subject to a condition the proposal would satisfy Policy 29.**
- 7.25 **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.

- 7.26 Should members be minded to approve the application, further details would be required to ensure that satisfactory detailed surface water drainage proposals are submitted for prior approval, together with maintenance details, independent check certificates and evidence of Scottish Water approval to connect.
- 7.27 **With the addition of planning conditions, the proposal could satisfy Policy 42.**
- 7.28 **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.
- 7.29 Should members be minded to grant planning permission, conditions are recommended to require a construction dust assessment, incorporation of electric vehicle charging points and to request details of the proposed means of heat and emergency power to buildings.
- 7.30 **Subject to conditions the proposal could satisfy the terms of Policy 44.**
- 7.31 **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.
- 7.32 In this case, a previously agreed remediation statement has been completed for the wider site. Should planning permission be granted, planning conditions are recommended to verify the agreed remediation along with any updates necessary.
- 7.33 **Subject to conditions, the proposal could satisfy Policy 45.**
- 7.34 **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.
- 7.35 In this case, as the closest residential properties are located at a considerable distance from the application site, there would be no issues in relation to noise, vibration or light pollution.
- 7.36 **The proposal would satisfy Policy 47.**
- 7.37 **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.

- 7.38 While the general findings of the transport statement are agreed, there is no reference to a safe drop off/pick up facility associated with the proposed nursery. Concerns are held that the dropping off of children would take place within a busy car park with no separation of vehicles. Should members be minded to grant permission further details would be required in terms of this safety issue. A planning condition would also be required to seek an agreed number and location of electric parking bays within the development.
- 7.39 **Subject to conditions, the proposal could satisfy Policies 54 and 55.**
- 7.40 **It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.**

## **OTHER MATERIAL CONSIDERATIONS**

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

### **A - NATIONAL PLANNING POLICY AND GUIDANCE**

- 7.42 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 Principal 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 only. The approval of this application and construction of the proposal would prevent the development of this prominent site for permissible industrial uses.
- 7.43 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.
- 7.44 The SPP also 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. 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.
- 7.45 The applicant has not provided an assessment of alternative sites. The proposal for a drive through coffee shop and restaurant/ take away 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.
- 7.46 The proposed Class 3 and sui generis takeaway 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.
- 7.47 The proposal does not comply with the Town Centres First approach or Scottish Planning Policy 2014 in relation to the restaurant/takeaway and drive through proposals.

## B - APPLICANT SUPPORTING INFORMATION

- 7.48 A planning statement, Transportation Statement, Design Statement, list of existing employers within Dunsinane Industrial Estate and letters of support from prospective occupiers of the units have been submitted with the application. The planning statement considers that the proposals are in accordance with the Development Plan and would be ancillary uses within the Principal Economic Development Area in compliance with Policy 4.
- 7.49 It is concluded, however, that the information submitted with the application has not demonstrated that the proposals would be aimed at solely meeting the needs of employees within the Economic Development Area and would not therefore be an ancillary use. Due to the high visibility of the proposed Class 3 units, it is considered that a high proportion of passing trade would be generated as opposed to mainly employees within the industrial area.
- 7.50 The planning statement also considers the approval of previous planning applications within the vicinity such as Kingsway Farm restaurant and bar to be a material consideration as it is located within Dunsinane Principal Economic Development Area. Employment projections are estimated as in excess of 100 jobs.
- 7.51 It is concluded, however, that the applicant has not demonstrated that the proposals would be aimed at meeting the needs of employees within the Principal Economic Development Area. There is already a provision of food and drink and nursery uses within the area.
- 7.52 **It is concluded from the foregoing that the material considerations do not support the approval of planning permission.**

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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 reason:
- 1 The development, in proposing a drive through coffee shop, restaurant/ take away and children's nursery (Class 3, Class 10 and sui generis use) at Dunsinane Industrial Estate, is contrary to Policies 1 and 4 of Dundee Local Development Plan. The site is designated as a Principal Economic Development Area where only uses within Class 4, 5 and 6 are supported. The proposed coffee shop, restaurant and nursery would not support the function of the existing Principal Economic Development Area. There are no material considerations that would justify approval of the application contrary to the approved and adopted Development Plan.