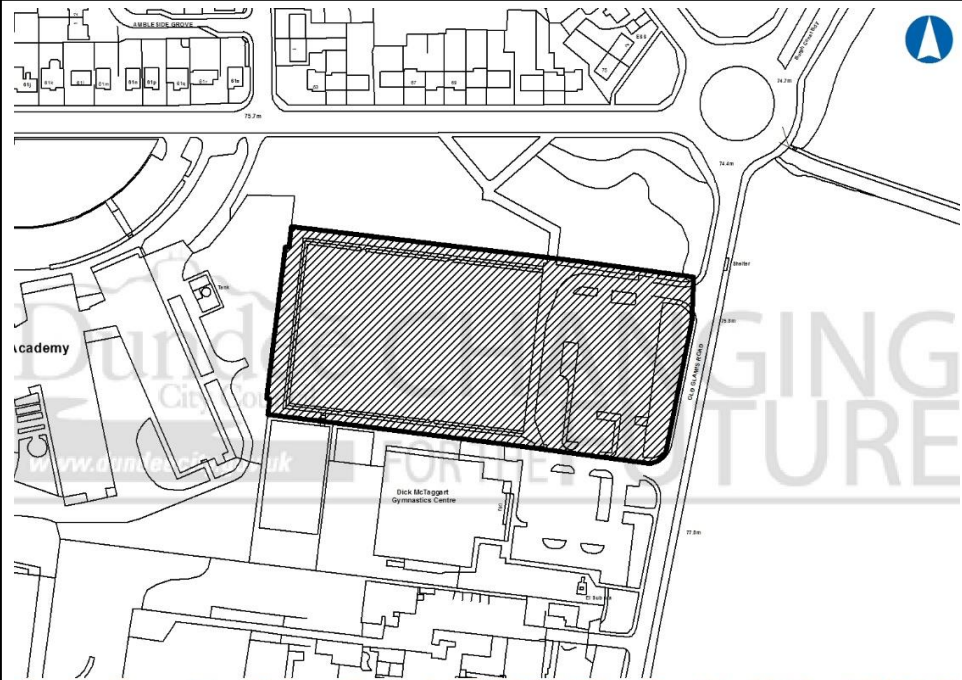


# Section 42 Application to Vary Condition 3 of Planning Permission 07/00143/FUL to Facilitate a Trampoline Park

KEY INFORMATION	
<b>Ward</b>	Strathmartine
<b>Address</b>	160 Old Glamis Road Dundee DD3 8LF
<b>Applicant</b>	Ryze Dundee Ltd 23 Mayfield Industrial Estate Dalkeith EH22 4AD
<b>Agent</b>	RDA Architects Seabraes House Greenmarket Dundee DD1 4QB
<b>Registered</b>	22 Sep 2017
<b>Case Officer</b>	Craig Swankie



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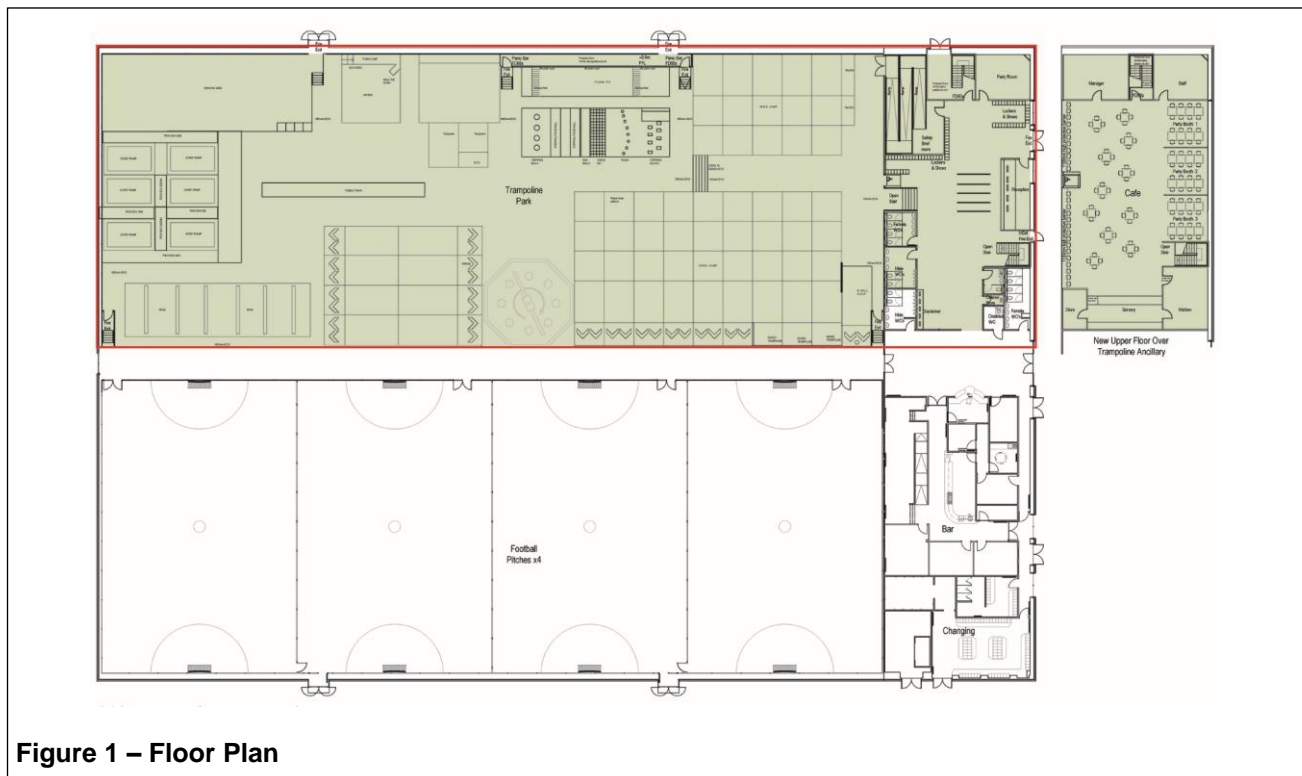
## SUMMARY OF REPORT

- Planning permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 for the variation of Condition 3 of planning permission 07/00143/FUL to facilitate a trampoline park within Soccerworld.
- The statutory neighbour notification process was undertaken including advertisement in the Evening Telegraph. One letter of objection has 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=OWO4Y5GCGUX00>.

## RECOMMENDATION

There are no relevant policies of the Development Plan, however there are material considerations which would justify the approval of planning permission. Therefore, it is recommended that the application is APPROVED subject to conditions

# 1 DESCRIPTION OF PROPOSAL



**Figure 1 – Floor Plan**

- 1.1 Planning permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 for the variation of Condition 3 of planning permission 07/00143/FUL to facilitate a trampoline centre.
- 1.2 The original application 07/00143/FUL to erect an indoor football centre including 8 artificial football pitches and a children's play area was approved in May 2007.
- 1.3 Condition 3 of planning permission 07/00143/FUL states:
- "That notwithstanding the terms of Class 11 of the Use Classes (Scotland) Order 1997 the premises hereby granted permission shall be used for the primary purposes of indoor football and associated uses only and for no other sporting activity without the prior written approval of the planning authority."
- 1.4 The reason for the condition was to ensure there was no loss of sports facilities within the city. The application site previously contained 4 outdoor football pitches. The redevelopment of the site to facilitate Soccerworld was supported as it involved the improvement of existing sports provision. To ensure the site was maintained as a sports facility, it was considered necessary to restrict the use of the new centre to football related uses only.
- 1.5 The applicant seeks the following variation to Condition 3 of planning permission 07/00143/FUL:
- "That notwithstanding the terms of Class 11 of the Use Classes (Scotland) Order 1997 the premises hereby granted permission shall be used for the primary purposes of indoor football, trampoline centre and associated uses only, as illustrated on drawing proposed floor plan dated 19.09.2017."

- 1.6 Planning permission would not normally be required for the proposed trampoline park as the existing Use Class is to be retained. The current application is only required to vary Condition 3 of 07/00143/FULL to allow the trampoline park to occupy Soccerworld. The proposals would result in the diversification of sports facilities at Soccerworld whilst retaining an active leisure use at the site.
- 1.7 Alterations including the relocation and extension of café facilities within the football centre are proposed under associated application 17/00737/FULL which is to be determined by Development Management Committee.



Figure 2 – Site Photo

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## 2 SITE DESCRIPTION

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- 2.1 The site is occupied by Soccerworld which accommodates 8 all-weather 5-a-side football pitches and a café with children's play area. A customer car park is located immediately to the east with access onto Old Glamis Road.
- 2.2 The site is located to the west of Old Glamis Road and to the south of Gillburn Road. The surrounding area accommodates a variety of uses including residential areas to the north, open space to the east, St Pauls RC Secondary School to the west and the McTaggart Centre and Dundee and Angus College buildings to the south.

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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:

### **DUNDEE LOCAL DEVELOPMENT PLAN**

There are no Development Plan policies that are relevant to this application.

- 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 Planning application 07/00143/FUL was approved in May 2007 for the erection of an indoor football centre.
- 4.2 Associated planning application 17/00737/FULL for a café which would serve the proposed trampoline park is to be determined by Development Management Committee.

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## 5 PUBLIC PARTICIPATION

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- 5.1 The statutory neighbour notification procedure has been undertaken.
- 5.2 One letter of objection has been received raising concerns in relation to:
- reduced community benefit;
  - unsuitable location;
  - lack of parking and public transport provision;
  - detrimental impact on residential amenity; and
  - contrary to the requirements of application 07/00143/FUL.
- 5.3 Members will already have access to the letters of objection and the issues raised are considered in the Observations section below.

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## 6 CONSULTATIONS

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- 6.1 **Sportscotland** – has no objection to the proposals.
- 6.2 **The Head of Environmental Management** – has no objection to the application, stating that the loss of 4 artificial 5 a-side pitches would have no impact on Dundee's Pitch Strategy.
- 6.3 **The Head of Community Safety and Protection** – has no objection to the proposals subject to the continued restriction of noise levels associated with mechanical and electrical equipment.

## 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.

### DUNDEE LOCAL DEVELOPMENT PLAN

- 7.2 Whilst policies relating to leisure development and open space were considered in the approval of the original application, no change of use is proposed and no new leisure floor space would be created. In this instance there are no Development Plan policies that are relevant to the application.
- 7.3 Planning permission would not usually be required for the proposals, which seek to diversify the existing leisure uses within the site, as no change of use is proposed. The existing football

pitches and proposed trampoline park are within Use Class 11 (Assembly and Leisure) of The Town and Country Planning (Use Classes) (Scotland) Order 1997.

- 7.4 Planning permission is required to vary Condition 3 of 07/00143/FULL which restricted the use of Soccerworld to indoor football and associated uses only.
- 7.5 In dealing with application 07/00143/FULL, Condition 3 was included at the request of sportscotland to ensure a sports facility was retained at the site which previously contained four outdoor sports pitches.
- 7.6 The proposed trampoline park would result in the loss of four indoor football pitches. However, four pitches would be retained ensuring the site continues to provide an indoor football facility. The proposed trampoline park would provide an additional leisure use which would support physical activity. Sportscotland has been consulted and has no objection to the proposed variation of Condition 3.
- 7.7 The proposals would provide an enhanced facility whilst retaining the established character of the site and adjoining land uses which include a gymnastics centre.
- 7.8 Should the Committee be minded to approve this application, it is recommended permission is granted subject to the variation of Condition 3 as sought by the applicant. The proposed condition would ensure the site continues to provide a facility for indoor physical leisure activities and ensures that further changes could be reviewed by the planning authority. .
- 7.9 **It is concluded from the foregoing that the proposal would not raise any issues in terms of the provisions of the development plan.**

## **OTHER MATERIAL CONSIDERATIONS**

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

### **A - CIRCULAR 4/1998**

- 7.10 Circular 4/1998 provides guidance on the use of conditions in granting planning permission and stipulates that while the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. The Circular demonstrates that conditions that are fair, reasonable and practicable satisfy 6 tests:
- necessary;
  - relevant to planning;
  - relevant to the development to be permitted;
  - enforceable;
  - precise; and
  - reasonable in all other respects.
- 7.11 Condition 3 sought to address the loss of existing all weather pitches at the site which was only acceptable as adequate replacement provision was being provided. Since planning permission was granted provision of all-weather pitches within the city has increased. Also, the proposals would retain 4 of the existing 5 a side all weather pitches. The proposal would therefore not result in any significant loss of all-weather sports facilities within the city.

- 7.12 The proposed variation would allow for part of the existing Soccerworld building to operate as a trampoline park. The proposed trampoline park would maintain the existing Use Class of Soccerworld Class 11 (Assembly and Leisure) and would continue to provide a leisure facilitate for physical activity. The proposed variation would enhance the range of sports facilities within the city.
- 7.13 The proposed variation of condition 3 on planning permission 07/00143/FUL does not undermine the necessity, purpose, relevance or precision of the original conditions. In this instance the proposals adhere to the requirements of Circular 4/1998.
- 7.14 All other relevant conditions attached to the original planning permission would be attached again should members be minded to approve the application.

#### **B – SUPPORTING INFORMATION**

- 7.15 The applicant has provided a statement in support of the application, which outlines the changes proposed under the application 17/00737/FULL and planning application 17/00738/FULL.
- 7.16 Planning application 17/00738/FULL seeks to vary condition 3 of 07/00143/FUL to facilitate a trampoline centre within the existing Soccerworld building. The statement confirms the proposals would have no significant impact on existing football pitch provision within the city and the existing Use Class of Soccerworld Class 11 (Leisure and Assembly) would be retained.

#### **C - DUNDEE CITY COUNCIL PITCH STRATEGY (2011-2016)**

- 7.17 The existing 5 a side pitches do not form part of the Dundee City Council Pitch Strategy (2011 - 2016), however, the strategy advises that the Council will support private sector developments of 5 a side pitches.
- 7.18 Through the retention of 4 pitches at Soccerworld there would be no significant loss of all-weather pitch provision within the city. The proposals ensure a range of all-weather sports facilities are maintained and would have no impact on the Dundee City Council Pitch Strategy (2011-2016). The Head of Environmental Management has no objection to the application.

#### **D - VIEWS OF OBJECTOR**

- 7.19 One letter of objection was received citing the following concerns.
- The proposed trampoline park would not be within an area identified for leisure development.
- 7.20 The application seeks to vary a condition of an existing planning application, therefore only the variation of the original planning permission 07/00143/FUL can be considered. The proposals seek to retain the existing leisure use of Soccerworld Class 11 (Assembly and Leisure) and would not result in any additional out of centre leisure provision.
- The loss of football pitches would be contrary to the requirements of 07/00143/FUL and increase pressure on existing provision.
- 7.21 The proposals would maintain the sites existing use as a centre for indoor physical activity. The existing pitches do not form part of the Dundee City Council Pitch Strategy (2011-2016) and the reduction in pitches would not have no significant impact on the overall provision of all-weather pitches within the city.

- The existing football pitches are of greater benefit to the local community than the proposed trampoline park.
- 7.22 The opening hours and target markets of the proposed trampoline park are not significantly dissimilar to that of the existing 5 a side football pitches. The existing and proposed uses would benefit local communities by providing an all-weather leisure development.
- A trampoline park has recently been granted planning permission in a more appropriate location.
- 7.23 Each application is assessed on its own merit. The proposed trampoline park would be contained within an existing building and maintains the site within Class 11 (Assembly and Leisure).
- There is a lack of parking and public transport at the proposed location.
- 7.24 The proposal would utilise the existing Soccerworld car park which provides 93 bays. The car park has sufficient capacity to accommodate vehicles associated with Soccerworld and the proposed trampoline park. However, as access to the car park is unrestricted students attending Dundee College regularly park within Soccerworlds car park. The use of the car park by students reduces the number of available spaces for customers of Soccerworld and the proposed trampoline park. This would impact on the ability of the existing car park to provide sufficient customer parking.
- 7.25 To ensure there is sufficient parking available for customers of Soccerworld and the trampoline park the applicant proposes to implement a parking management plan. The proposals would see signage introduced and access to the car park managed between 2245 and 0945 to ensure there is sufficient capacity for customers of Soccerworld and the trampoline park.
- 7.26 Should the Committee be minded to approve this application, it is recommended permission is granted subject to a condition requiring a parking management plan to be agreed and implemented prior to the opening of the trampoline park.
- 7.27 Bus stops on Old Glamis Road immediately east of the site are served by frequent services, up to every 10 minutes, between the City Centre and Kirkton. In addition, outer circular buses serve stops on Gilburn Road 200 metres to the north west of the site.
- Detrimental impact on residential amenity.
- 7.28 The proposed use of the site as a trampoline park and retention of 4 football pitches would have no additional impact on residential amenity. It is recommended conditions from the original application 07/00143/FUL restricting noise from mechanical and electrical equipment and music are attached to any consent should the Committee be minded to grant planning permission.
- 7.29 The concerns of the objector in relation to the siting of the proposed trampoline park and reduction in community benefit are not supported. The concerns of the objector in relation to parking and impact on residential amenity can be addressed by condition should Committee be minded to grant planning permission.
- 7.30 **It is concluded from the foregoing that the material considerations support the approval of planning permission.**

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## 8 CONCLUSION

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- 8.1 The proposed variation of Condition 3 of 07/00143/FUL to facilitate a trampoline park does not raise any issues in relation to the requirements of the local plan. There are material considerations which would support the approval of planning permission. Therefore it is recommended that planning permission be granted subject to conditions.

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## 9 RECOMMENDATION

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- 9.1 It is recommended that consent be GRANTED subject to the following conditions:
- 1 **Condition** - that notwithstanding the terms of Class 11 of the Use Classes (Scotland) Order 1997 the premises hereby granted permission shall be used for the primary purposes of indoor football, trampoline park and associated uses only, as illustrated on the Drawing named "proposed floor plan" dated 19 September 2017 and for no other sporting activity.  
  
**Reason** - the redevelopment of existing sports facilities within the city is not normally supported unless the proposals involve an improvement in existing sports provision. In order to ensure that the existing all weather sports provision within the city is maintained, it is considered necessary to restrict the use of the centre to football and trampoline park related uses only.
  - 2 **Condition** - that total noise from all mechanical and electrical services shall not exceed NR35 as measured 1 metre external to the facade of any residential accommodation.  
  
**Reason** - to protect local residents from any noise from the site as generated as a result of the use hereby granted permission.
  - 3 **Condition** - all amplified music and vocals shall be so controlled as to be inaudible at the facade of any residential property.  
  
**Reason** - to protect local residents from any amplified noise generated by the proposed soccer centre.
  - 4 **Condition** - a Car Park Management Plan shall be submitted to and approved by the planning authority prior to the opening of the proposed trampoline park. The approved Car Park Management Plan shall thereafter be implemented prior to the use of the premises as a trampoline park commencing and remain operational for the duration of the use of the site as a trampoline park.  
  
**Reason** - to ensure there are adequate parking facilities available.