

Erection of a Class 1 Retail Foodstore and 2 No Business Units (Class 4, 5 and 6) With Ancillary Trade Counter

KEY INFORMATION

Ward The Ferry

Address

Land To North Of Arbroath Road And East Of Tom Johnston Road
West Pitkerro Industrial Estate
Dundee

Applicant

Aldi Stores Ltd
Pottishaw Road
Bathgate
United Kingdom
EH48 2FB

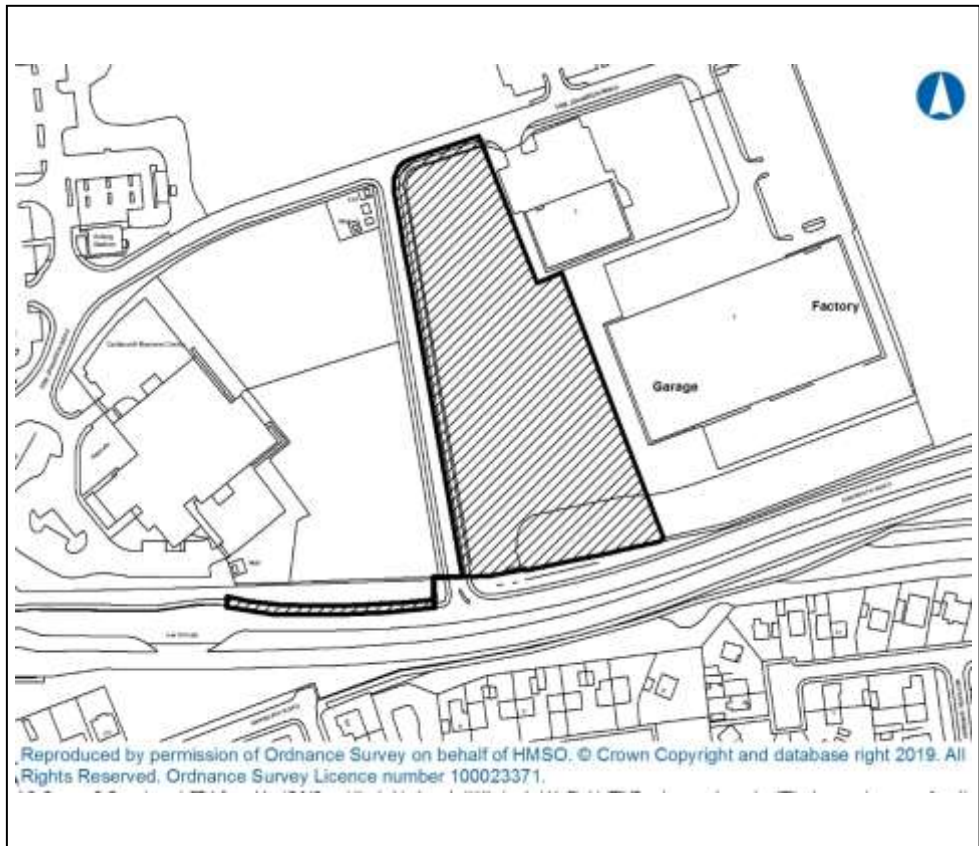
Agent

Avison Young

Registered 15 March 2019

Report by Head of Planning & Economic Development

Contact: Claire Myles



SUMMARY OF REPORT

- Planning permission is sought for the erection of a Class 1 retail foodstore and 2no business units (Class 4, 5 and 6) with ancillary trade counter, associated car parking, access, landscaping and other works.
- The application is not in accordance with the Development Plan.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. Four letters of objection and three letters of support have been received.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee at the request of an elected member.
- More details can be found at <http://idoxwam.dundeeccity.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>

RECOMMENDATION

The proposal is not in accordance with the Development Plan. There are no material considerations that would justify approval of planning permission. It is therefore recommended that planning permission be REFUSED.

1 DESCRIPTION OF PROPOSAL

- 1.1 The application is for the erection of a Class 1 retail foodstore and 2no business units (Class 4, 5 and 6) with ancillary trade counter, associated car parking, access, landscaping and other works.
- 1.2 The proposed Class 1 retail foodstore will comprise:
- Gross floorspace of 1,88m²;
 - Net sales floorspace of 1,315m² (convenience floorspace of 1,050m² and 265m² comparison floorspace).
- 1.3 The proposed business units (gross floor area 930m²) are shown on the site plan as split into two units however the supporting documents note that this is indicative only and the units could be split further, or combined, as the market requires.
- 1.4 The single storey retail foodstore is proposed on the eastern boundary of the site and this will be served by 113 parking spaces to the front (west) and south of the main entrance to the foodstore. To the north of the proposed foodstore, 2 no single storey business units are to be located on the eastern boundary and served by 12 parking spaces to the front (west) of the units.
- 1.5 A shared service yard is proposed for the foodstore and business units in a central area of the site. An 1800mm high close boarded fence will be erected to separate the foodstore car park from the service yard.
- 1.6 To the west of the application site is an existing road which is accessed from Tom Johnstone Road to the north. A separate access to the business units; the foodstore and the service yard is proposed from the existing road.
- 1.7 Pedestrian access will be formed off the western access road to serve the business unit, which will link up to a footpath that also connects Tom Johnston Road to the north. A new pedestrian footpath with a new white-lined crossing will work in tandem with a public footpath from the western access road to the new foodstore entrance.
- 1.8 Covered cycle parking will be provided in front of the foodstore and the business units.
- 1.9 The proposed scheme includes a mixture of both soft and hard landscaping features across the site. The site entrance from the western access road will feature dense low level planting and a selection of trees to create an aesthetically appealing frontage to the site.
- 1.10 An 1,800mm high close boarded fence will be erected along the eastern boundary to demarcate the foodstore from the adjacent site and warehouse units.
- 1.11 The applicant has submitted the following in support of the application:
- Design and Access Statement;
 - Planning and Retail Statement;
 - Transport Assessment and Addendum;
 - Flood Risk Assessment and Drainage Scheme;

- Contaminated Land Assessment;
- Employment Land Report and Marketing Appraisal;
- Valuation Report; and
- Public Consultation Report.



Figure 2 – Street Elevations

2 SITE DESCRIPTION

- 2.1 The application site (1.27 hectares) is a vacant greenfield site on a visually prominent site between Tom Johnston Road and Arbroath Road (A92).
- 2.2 The site's topography is generally flat from east to west with a fall of approximately 4.4m from north to south.
- 2.3 An existing road on the western boundary of the site links Tom Johnston Road and Arbroath Road. There is no pedestrian or vehicular access to the site as it is currently vacant.
- 2.4 To the north and east of the application site are business units, to the immediate west is vacant land and further west is Castlecroft Business Centre and KFC and to the north-west is a Sainsbury's. To the immediate south is Arbroath Road (A92) and Broughty Ferry residential area.



Figure 3 – Site Photo



Figure 4 – Site Photo

3 POLICY BACKGROUND

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

TAYPlan 2016-2036

Policy 3: A First Choice for Investment

Policy 5: Town Centres First

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking

Policy 2: Public Art Contribution

Policy 3: Principal Economic Development Areas

Policy 20: Funding of On and Off Site Infrastructure Provision

Policy 21: Town Centre First Principle

Policy 24: Goods Range and Unit Size Restrictions

Policy 28: Protecting and Enhancing the Dundee Green Network

Policy 29: Outdoor Access and the Dundee Green Network

Policy 36: Flood Risk Management

Policy 37: Sustainable Drainage Systems

Policy 39: Environmental Protection

Policy 41: Land Contamination

Policy 44: Waste Management Requirements for Development

Policy 48: Low and Zero Carbon Technology in New Development

Policy 54: Safe and Sustainable Transport

Policy 56: Parking

SCOTTISH PLANNING POLICY 2014

Scottish Planning Policy (2014) 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.

The 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.”

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 No relevant planning history.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 Four objections have been received including Broughty Ferry Community Council and Dundee Civic Trust. The objections raise the following valid material planning matters:
- Contrary to Local Development Plan Policy 21 Town Centre First Principle;
 - Contrary to Scottish Planning Policy;
 - Significant detrimental effect on the vitality and viability of Broughty Ferry District Centre;
 - Inaccurate information on public transport provision provided in the supporting documents;
 - Detrimental impact on current roads system due to increased volume of traffic;
 - Poor location in that Arbroath Road forms a substantial barrier to pedestrian custom; largely aimed at car-borne custom; better pedestrian links required;
 - Any jobs arising from this proposal would inevitably lead to losses elsewhere in the already crowded retail sector;
 - Fails to satisfy Policy 56 Parking which states all parking facilities at commercial development should include the provision of charging stations for electric vehicles;
 - Potential impact on the allocated centres;
 - The Transport Assessment under-estimates the development impact which in turn underplays the impact on the road network; and
 - Potential conflict in operation of service yard for business units and foodstore and staff car parking if not adequately managed.
- 5.3 Three letters of support have been received, raising the following valid material planning considerations:
- job creation; and
 - improve shopping provision.
- 5.4 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 **Scottish Water** – no objection.
- 6.2 **SEPA** – no objection.
- 6.3 **Transport Scotland** – no objection.

- 6.4 **Angus Council** – no objection.
- 6.5 **Head of Community Safety and Protection** – was consulted and advised on the following matters:
- a **Contamination** – a Phase 1 and 2 survey was submitted and reviewed. It is recommended that conditions are attached to any planning permission granted to request that prior to the commencement of development a remediation strategy is submitted for written approval by the planning authority.
 - b **Noise** – in order to protect residential amenity it is recommended that the operating hours of the store are restricted to that outlined in the supporting documents; deliveries and servicing of the store shall not take place between 2200 and 0700 hours and noise from all mechanical and electrical plant/services shall not exceed NR35 during the night as measured 1 metre external to the façade of adjacent residential accommodation.
 - c **Giant Hogweed** – records show that an invasive plant Giant Hogweed grows on this area of land. It is recommended that a condition is attached to any planning permission granted to request that a treatment plan for the management of the invasive species for a period of at least 5 years is submitted for the written approval of the planning authority prior to the commencement of development.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended 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 2016 – 2036

- 7.2 **Policy 3: A First Choice for Investment** – requires Local Development Plans to identify and safeguard at least 5 years supply of employment land to support the growth of the economy and a diverse range of industrial requirements.
- 7.3 In accordance with this requirement, the local development plan strategy for employment land is to maintain a generous supply of business land of varying sizes and in varying locations to ensure that the city can readily respond to the needs of inward investors and those indigenous businesses already located within the city of Dundee. It does this by designating parts of the city as economic development areas.
- 7.4 Principal Economic Development Areas provide quality business environments in locations that are proven to be highly suitable to both the transport network and their workforce accessibility. They tend to contain larger single user business properties.
- 7.5 The application site has been safeguarded as part of a Principal Economic Development Area (West Pitkerro) and is in a highly visible and accessible location in terms of both the local and

strategic transport networks. The A92 trunk road, to the immediate south of the site, runs through Dundee linking the city with the Angus Council area and beyond.

- 7.6 As part of the proposal, the north portion of the site is proposed to be occupied by two industrial units to be Class 4, 5, 6 with ancillary trade counter. Uses falling under these Use Classes 4, 5 and 6 are in keeping with the requirements of the Policy. The southern portion of the site is proposed to be occupied by a Class 1 retail use. This use does not accord with requirements of Policy 3.
- 7.7 The application site is a particularly high quality site and one of the only ones in this area which offers such a highly visible and accessible location. Reducing the business land supply by allowing the retail element of this proposal would reduce the quality and diversity of business land in Dundee.
- 7.8 **The proposal is not in accordance with Policy 3.**
- 7.9 **Policy 5: Town Centres First** - this policy requires Local Development Plans to identify a network of centres based on the sequential priority from Scottish Planning Policy. Planning decisions for land uses that generate significant footfall should be based on the Scottish Planning Policy sequential town centre first approach to protect and enhance the vitality, viability and vibrancy of city/town centres.
- 7.10 In accordance with Scottish Planning Policy and the Strategic Development Plan's 'town centre first approach' the City Centre and District Centres are the preferred locations for uses that generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities.
- 7.11 The southern portion of the site is proposed to be occupied by a Class 1 retail use. This part of the proposal would not address the requirements of Policy 5 and the Town Centres First approach as the retail use would be outwith the City Centre/District Centre.
- 7.12 **The proposal is not in accordance with Policy 5.**

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.13 **Policy 1: High Quality Design and Placemaking** - states all development proposals should follow a design-led approach to sustainable, high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned and designed with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, create a sense of community and identity, enhance connectivity and incorporate creative approaches to urban design, landscaping and green infrastructure, appropriate to the local context and the scale and nature of the development. New development will be required to meet the six qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.14 A Design and Access Statement has been submitted. The Statement notes that the aim of the development is to provide a high quality, attractive commercial development. It outlines that the proposed food store and business units are single storey which is in keeping with the scale and massing of the surrounding area. The main shopfront (west elevation) will be largely glazed with an over sailing canopy to protect the customer entrance and trolley area. The supporting documents highlight that this has been deliberately located to maximise its active frontage to Arbroath Road. The building will be clad primarily in grey cladding panels to

provide a contemporary look. The business units will be similarly finished to give a cohesive design across the site.

- 7.15 The application site is accessed from the existing road to the west. Three separate accesses are proposed from this road to the business units; the foodstore and the service yard. Pedestrian access will be formed off the western access road to serve the business unit, which will link up to a footpath that also connects Tom Johnston Road to the north. A new pedestrian footpath with a new white-lined crossing will work in tandem with a public footpath from the western access road to the new foodstore entrance. Covered cycle parking will be provided in front of the foodstore and in front of the business units.
- 7.16 The proposal includes a mixture of soft and hard landscaping features across the site. The Proposed Landscape Plan outlines the hard and soft landscaping and boundary treatment proposed. The Design and Access Statement notes that the site entrance from the western access road will feature dense low level planting and a selection of trees to create an aesthetically appealing frontage to the site.
- 7.17 In respect of Policy 1, the developer's aim of creating an attractive commercial development is acknowledged on this visually prominent vacant site. Given the visual prominence of the site it is recommended that should Committee be minded to approve the application, full details of all finishing materials are submitted to the Council for written approval prior to the commencement of development in order to secure a high quality and attractive development.
- 7.18 Policy 1 refers to Appendix 1 which expands upon Scottish Planning Policy's six qualities of successful place. It highlights that the scale, nature and location of the development will determine the extent to which the qualities and considerations are appropriate to the assessment process.
- 7.19 The following 3 qualities of successful place are relevant for consideration in respect of this proposal:

Safe and Pleasant/Easy to Move Around and Beyond/Welcoming – the application site has been safeguarded as part of a Principal Economic Development Area (West Pitkerro) for Class 4, 5 and 6 uses. It is a largely well-defined and homogenous business area. The site is highly visible and accessible from the Arbroath Road (A92) which makes it an attractive site for inward business investment. Given the nature of the businesses operating within the area there is a heavy presence of motorised vehicles. Drawing members of the public onto industrial roads to visit a non-conforming retail use within the site could create conflict and safety issues between incompatible uses. This has the potential to harm economic activity in the area. Given the nature of the land use and businesses operating in the economic area the sustainable and active travel choices are limited. The location of the site next to the A92 and the presence of motorised vehicles operating in the economic development area is a discouraging factor for pedestrian trips. As a consequence the limited choice of sustainable transport modes to this out-of-centre location encourages reliance on the car. The applicant has failed to demonstrate that the proposal can be sensitively and safely integrated into a homogenous business area. The proposal fails to create a safe, pleasant and welcoming environment which is easy to move around and access walking, cycling and public transport options. The proposal fails to satisfy Appendix 1.

This policy advocates a design-led approach to ensure high quality placemaking and requires the design and siting of development to respect the character and amenity of the place. In so doing an understanding of local context is required. The application site is within a highly visible and accessible Principal Economic Development Area. The proposed retail element of the proposal fails to respect the character of this largely homogenous business area and will introduce a non-conforming use which could impact negatively on the wider economic

development area. The applicant has failed to fully consider the relationship of the proposed development in the context of the wider area.

7.20 **The proposal is not in accordance with Policy 1 and Appendix 1.**

7.21 **Policy 2: Public Art Contribution** - all developments in Dundee with construction costs of £1 million or over will be required to allocate at least 1% of construction costs for the inclusion of art projects in a publicly accessible/visible place or places within the development.

7.22 The applicant's agent has confirmed that in respect of construction costs this policy applies. It is recommended that a condition is attached to any planning permission granted to secure a public art contribution should Committee be minded to approve the application.

7.23 **The proposal is in accordance with Policy 2 subject to a condition.**

7.24 **Policy 3: Principal Economic Development Areas** - Principal Economic Development Areas are of City-wide significance and as such will be safeguarded for Class 4 "Business", Class 5 "General Industry" and Class 6 "Storage and Distribution". Uses other than these will be resisted. Any development at the Port of Dundee Principal Economic Development Area should not have an adverse effect, either alone or in combination with other proposals or projects, on the integrity of any Natura Site.

7.25 The application site is located in the West Pitkerro Principal Economic Development Area. The application proposes a mix of uses on the site. The northern portion of the site, immediately to the south of Tom Johnston Road, is to be occupied by two business units (Class 4, 5, 6) with ancillary trade counter. The Design and Access Statement notes that '*The business space could be subject to potential sub-division as no specific operators are currently identified. The internal configuration of this is therefore subject to specific tenant requirements (to be identified at letting stage).*' The Planning and Retail Statement highlights that "*The business units as proposed are shown as split into two units (465m²) but it is worth noting that these are indicative only and could be split further, or combined, as the market requires. Marketing of the space would take place at the post planning stage.*"

7.26 As part of the assessment of the application, clarification was requested from the applicant's agent on the specific use proposed for each unit however this has not been received. This information is required as depending on the use class of the business units there may be more specific roads, parking and amenity matters to address.

7.27 On this basis it is recommended that should members be minded to approve the application that a condition is attached to request confirmation of the initial use of the unit and details of any plant, machinery, ventilation or additional development such as yard space, additional parking or enclosures, required to enable the use to function, are submitted to the Council for the record prior to the occupation of any unit. This would allow any potential road, parking and amenity matters to be addressed prior to the units being occupied. Also it would clarify the application process for any future change of use of the business units as required by The Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

7.28 Further it is recommended that should members be minded to approve the application that a condition is attached to ensure that the business units are erected for operational use prior to the commencement of work on the retail foodstore.

7.29 **This business unit element of the proposal on the northern portion of the site is in accordance with Policy 3 subject to conditions.**

- 7.30 The larger southern portion of the site, to the immediate north of the Arbroath Road (A92), is proposed to be occupied by a Class 1 retail use.
- 7.31 The application site has been safeguarded as part of a Principal Economic Development Area (West Pitkerro) for Class 4, 5 and 6 uses. Principal Economic Development Areas provide quality business environments in locations that are proven to be highly suitable to both the transport network and their workforce accessibility. They tend to contain larger single user business properties.
- 7.32 The proposal for a Class 1 retail use on the southern portion of the site would fragment a largely well-defined and homogenous business area. Further the proposal would draw members of the public onto industrial roads creating road safety issues and amenity conflicts which could harm economic activity for businesses operating in the economic development area. The application site is a particularly high quality site in a highly visible and accessible location. Reducing the business land supply by allowing the retail element of this proposal would reduce the quality and diversity of business land in Dundee. This will not help to deliver the aims of the Dundee Economic Strategy to meet the needs of inward investors or expanding indigenous businesses.
- 7.33 This proposed retail use is not in accordance with Policy 3.
- 7.34 **The proposal is not fully in accordance with Policy 3.**
- 7.35 **Policy 20: Funding of On and Off Site Infrastructure Provision** - the City Council, where necessary and appropriate, will seek to secure developer contributions towards the cost of infrastructure provision both on and off site. The principles that guide the requirement for contributions and the Developer Contributions Supplementary Guidance are:
- 1 fair and proportionate developer contributions for all developments on sites allocated in either the Dundee Local Development Plan or in terms of windfall development;
 - 2 developer contributions will be sought where a need for new or improved services, facilities or infrastructure has been demonstrated that relates directly to the requirements or impacts of a proposed development;
 - 3 flexibility in approach to ensure that development can be brought forward in varied economic circumstances while ensuring that the development has no net detriment; and
 - 4 facilitate informed decision making by those involved in the development process, allowing potential financial implications to be factored into development appraisals prior to commercial decisions and actions being undertaken.
- 7.36 The Developer Contribution Supplementary Guidance 2019 states that the Council wishes to encourage appropriate development in accordance with the Local Development Plan. Accordingly developer contributions will only be necessary where clearly required to enable development to be acceptable in planning terms and will be proportionate to the scale and nature of the development proposed.
- 7.37 The Supplementary Guidance states that new developments will be expected to make appropriate provision for all modes of transport within the site. Developer contributions may be sought for public transport facilities, improvements to core paths serving the development and new and/or improved on or off road cycle/walking routes. In addition to physical works, there may be occasions where payments are required to support the provision of public transport services.

- 7.38 The applicant's Transport Assessment highlights public transport in close proximity to the application site. This includes the bus service (no. 88) serving Sainsbury's with a bus stop located outside the Sainsbury's foodstore. The Transport Statement highlights that this would be the closest bus stop (350m) and less than a 5 minute walk from the proposed new foodstore. The Transport Assessment also states that the developer proposes to complete a section of footpath on the northern side of the A92 to provide a continuous route to the new store from the south and west.
- 7.39 During the application process a meeting was held with the applicant's agents. The discussion highlighted the non-conforming use in the Principal Economic Development Area and the poor connectivity and accessibility of this out-of-centre site to the surrounding residential areas it would serve and the limited safe and sustainable travel options available. Through the discussion an opportunity was presented to improve connectivity to the application site from the east through the development of a safe footpath link from Linlathen Lane to Tom Johnston Road through Council owned land and an area of land owned by James Keiller Estates (see Figure 5).
- 7.40 Following this meeting, a Transport Assessment Addendum was submitted and this stated that, to further improve the accessibility of proposals, the applicant would be prepared to deliver or contribute to the following:
- provision of a new footway, including suitable pedestrian guardrail on the existing northern verge of the A92, west of Tom Johnston Road;
 - contribution of £10,000 towards the providing of a pedestrian/cycle connection towards Linlathen Lane (to the east of the site). Alternatively, this contribution could be made to the Council and go towards other improvements in the area; and
 - provision of a new bus stop on Tom Johnston Road on the site's western boundary for use by the Moffat & Williamson service 88, to allow public transport to be accessed in the immediate vicinity of the proposals (a revised site plan was submitted to include this).
- 7.41 In response to this proposal from the applicant, it is acknowledged that the applicant proposes to make the new footway on the northern verge of the A92 safer for users.
- 7.42 The Transport Assessment Addendum includes correspondence which states that a footpath from the east would be delivered as part of a proposed masterplan for residential development in the Linlathen area and at a point when housing is developed and the increased population in the area dictates the need for this route. Members should note that the housing development in the Linlathen area, referred to in the Transport Assessment Addendum, is a developer led masterplan of a wider greenfield site. Part of the greenfield site is allocated in the Local Development Plan 2019 with an indicative capacity of 250 units (Housing Site Allocation H46). Securing these pedestrian/cycle improvements is a means of addressing issues of accessibility that arise directly from the development of this non-conforming use within an economic development area. Timely delivery of the pedestrian/cycle connection is reasonable in this instance.
- 7.43 Members should note that the bus service serving Sainsbury's is secured by a S75 obligation as part of the planning permission granted for the foodstore (99/24269/D and 00/25016/D). Sainsbury's fund this service which is operated by Moffat & Williamson (No 88) and the service runs from Monday to Saturday between 0900 hours and 1500 hours. This service would end should Sainsbury's cease trading. The bus stop serving Sainsbury's is to the east of the store entrance and users accessing it from the application site would be required to navigate a busy vehicular access to the store and car park.

- 7.44 The further supporting information submitted in the Transport Assessment Addendum is a positive move by the developer to improve the accessibility of the site however overall it fails to offer a timely, permanent and suitable transport solution for the proposed non-conforming development.
- 7.45 In line with this policy, should members be minded to approve the application, it is recommended that a S75 planning obligation would be an appropriate mechanism to secure a footpath with a protective guardrail on the northern verge of the A92; fully provide a footpath link from Linlathen Lane to the east of the application site (Figure 5) and secure the provision of a bus service to operate during store opening hours. These would be required to be provided and in place prior to the opening of the proposed foodstore. The terms of the S75 should be agreed by all parties within 6 months of any planning permission granted and it is recommended that this should be secured by condition, should members be minded to approve the application. This would ensure suitable improvements to public transport and walking and cycling routes are provided by the developer to improve the connectivity and accessibility of the site for the residential areas the proposed development is intended to serve.
- 7.46 Members should note that these improvements to the local path and public transport network do not make the development acceptable in planning terms. The proposal would still be contrary to the local development plan for the reasons discussed elsewhere in this report. Securing these improvements is a means of addressing issues of accessibility that arise directly from the development of this non-conforming use within an economic development area.
- 7.47 **The proposals are in accordance with Policy 20 subject to the completion of a Planning Obligation.**

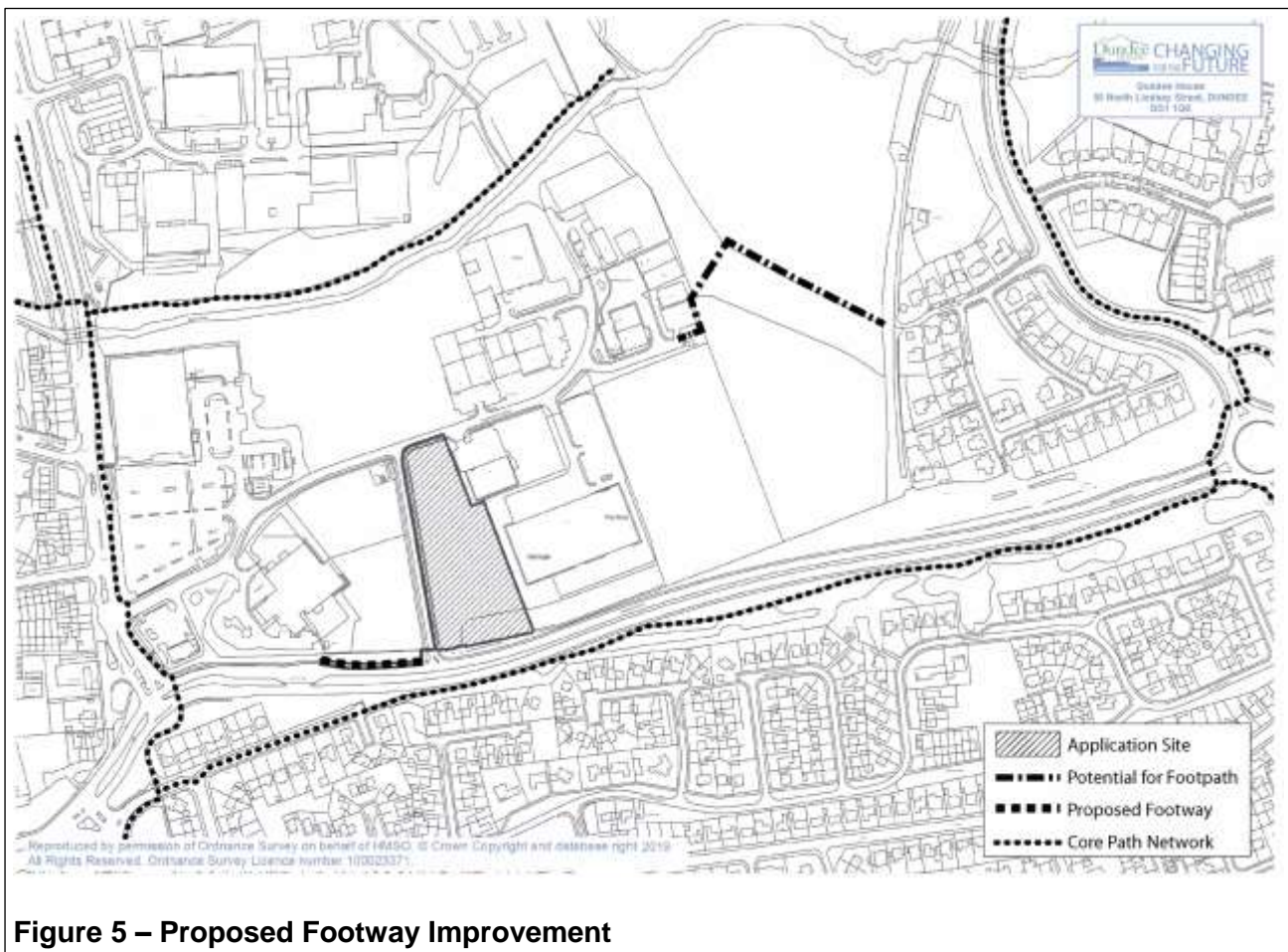


Figure 5 – Proposed Footway Improvement

7.48 **Policy 21: Town Centre First Principle** - all new or expanded uses that will generate significant footfall should be located in the City Centre or a District Centre. Proposals for such uses in other locations will only be acceptable where it can be established that:

- 1 no suitable site is available, in the first instance, within the City Centre or District Centres then, edge of town centre and then, Commercial Centres identified in the Local Development Plan, and then out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes;
- 2 individually or cumulatively the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres or Commercial Centres; and
- 3 the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres.

7.49 The proposed retail element will generate significant footfall and as such Policy 21 applies. The applicant has submitted a Planning and Retail Statement and sections 7, 8 and 9 address the three criteria of Policy 21. The following paragraphs takes each criterion of Policy 21 in turn and firstly summarises the applicant's case followed by a planning response:

- 1 **The Planning and Retail Statement** - refers to a sequential assessment which is set out in Appendix 4 and 5. It highlights that the proposals are submitted in order to meet Aldi's new store development aspirations to serve the residents of east Dundee. The catchment area captures the population principally within the east part of the city comprising the Mid-

Craigie, Douglas and Broughty Ferry communities in addition to those living in Monifieth, Angus. It notes that as the site occupies an “out of centre” location and that sequentially preferable sites, within and on the edge of town and in district and commercial centres in the catchment area require to be assessed. This includes locations within Broughty Ferry District Centre and Monifieth Town Centre. The assessment outlined in the Planning and Retail Statement has not identified any sequentially preferable opportunities, in accordance with the sequential approach set out in the development plan and Scottish Planning Policy. This is mostly due to a lack of sites of an available size suitable for an Aldi store.

It notes that the site occupies an accessible location within walking distance of densely populated part of the City. In addition, the site is well positioned on a significant transport corridor used to cross east Dundee. The location benefits from being close to a number of public transport facilities, including adjacent bus stops. Furthermore, as part of the application there is a proposal to upgrade and develop new paths to improve access to the store from nearby residential areas. It states that the site is very accessible by a range of transportation means and therefore satisfies the second part of criteria 1 of Policy 21.

Response - taking into account the case put forward by the applicant, it is acknowledged that the store format relates to a store with a gross floor area of 1,862m² and that a flexible approach has been adopted by the applicant in assessing all other available sites within and adjacent to existing centres within the catchment area of East Dundee. The Dundee Retail Study 2015 notes there are very limited opportunities to increase the physical size of the Broughty Ferry District Centre due to the surrounding land uses. It is accepted that there are no sequentially preferable sites available for this development within the catchment area of East Dundee.

In terms of accessibility, this is an out-of-centre site which is separated from the nearby residential areas by dual carriageway traffic and there are limited footpath links from the site to these areas. The Transport Assessment Addendum states that the applicant proposes to complete a section of footway on the northern side of the A92 with a safety barrier to provide a continuous route to the new store and trade units and allow easier access for pedestrians wishing to make use of this link adjacent to the A92. The presence of the dual carriageway with fast moving traffic is likely to be a discouraging factor limiting the number of pedestrian trips along this route. Further the applicant proposes a small financial contribution towards the provision of a footpath link from Linlathen Lane to the east of the application site as set out in the Transport Assessment Addendum.

The Transport Assessment outlines the public transport provision serving the immediate surrounding area and the proximity of bus stops to the development site. The closest existing bus stop is within the site of Sainsbury’s and this is served by bus service No 88 which is funded by Sainsbury’s to comply with the terms of planning permission 99/24269/D and 00/25016/D. As outlined in an addendum to the Transport Assessment, the applicant has had discussions with the operator of the bus service who have confirmed that if a new bus stop was provided on Tom Johnston Road, on the site’s western boundary, the service would stop at it, therefore bringing access to a public transport service within the immediate vicinity of the new store and business units.

The existing service is limited in terms of the area it covers and its frequency and is part funded by Sainsbury’s. Should this service be withdrawn there would be no public transport to the application site.

As highlighted in the Transport Assessment, Scottish Planning Policy 2014 (paragraph 287) stresses the importance of sustainable travel and states that ‘planning permission should not be granted for significant travel-generating uses at locations which would

increase reliance on the car'. The applicant has failed to fully demonstrate that this out-of-centre location is or can be made easily accessible by a choice of transport modes as required by criterion 1. As such the proposal is contrary to criterion 1.

- 2 The Planning and Retail Statement** - reports that in order to ensure that the proposals will not undermine the vitality and viability of protected retail centres within the catchment, town centre health checks were completed. This is an approach advocated by Scottish Planning Policy. The health checks are based on the catchment area of the proposed foodstore and were undertaken for Broughty Ferry District Centre and Monifieth Town Centre.

The health checks found that the proposed foodstore would not have a negative impact on Broughty Ferry District Centre or Monifieth Town Centre.

The statement refers to a retail impact assessment undertaken the findings of which are outlined in the document. It notes that the trade diversions would result in only modest levels of impact and as a result, it is not anticipated that there will be any overall detrimental impact to the vitality and viability of these areas. This is backed up by the findings of the town centre health checks.

Response - the proposed store will have a gross floor area of 1,862m² with a net sales area of 1,315m². Approving a non-conforming use in the economic development area would lead to the creation of an enlarged retailing area, similar to the scale of retail parks found in Commercial Centres and District Centres, to the potential detriment of the Broughty Ferry District Centre. It is noted that the supporting statement provides information regarding the principal trade diversions likely to result in relation to convenience retail. However, this does not account for the loss of overall footfall that might otherwise be directed towards the Broughty Ferry District Centre as a result of linked trips generated when customers visit the range of goods and services on offer within the District Centre. Impacts will therefore not be exclusively related to other convenience shops and the loss of such linked trips will have a cumulative impact upon the Broughty Ferry District Centre as a whole. The Dundee Retail Study 2015 identifies the drawing of expenditure and associated footfall to out of centre retail development as one of the threats to the City Centre and District Centres. The proposal is contrary to Criterion 2.

- 3 The Planning and Retail Statement** - reports that a comprehensive retail impact assessment has been prepared to support the application. It notes that this clearly demonstrates a quantitative deficiency in the catchment. A Pre-application Consultation Report has been submitted with the application to report on public consultation exhibitions held in February 2019 and resident surveys undertaken in February 2019. The statement refers to the findings of the surveys which confirms public support for increased choice in the local area. It notes that this clearly demonstrates a quantitative and qualitative deficiency within the catchment.

Response - the unit is to be occupied by a discount food retailer which currently operates two stores within the city (The Stack and Arbroath Road) and a third store is under construction (Myrekirk Road). There is an existing large food store adjacent to the site which carries discounted ranges and provides convenient food store shopping opportunities for the residential population in this area and for those within the economic development area. The supporting document makes reference to the differences in format and product lines which sets this proposed discount foodstore apart from other foodstores, such as Sainsbury's, however it is the use class which should be considered (Class 1) rather than the product range/identity/calibre of a specific retailer. 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 and a Lidl store granted planning permission (Kingsway East) and understood to be commencing construction. This eastern part of the City is served by the Broughty Ferry District Centre where there is M&S and Tesco, a larger Tesco in Monifieth and an existing Aldi on Arbroath Road which are all easily accessible by a range of transport methods and provide further choice within this sector. Overall the City benefits from good provision for food retailing. Given the existing availability of major foodstores and District Centres serving the eastern part of the city, it is considered that there is no deficiency to be addressed at this time. There is therefore no deficiency for food retailing (including convenience) that cannot be met within the existing centres. The proposal is contrary to Criterion 3.

7.50 **The proposal is not in accordance with Policy 21.**

7.51 **Policy 24: Goods Range and Unit Size Restrictions - Food Stores** - within new or extended food stores the sale and display of comparison goods shall be limited to no more than 30% of the net sales area of the store, subject to the limitations that no single group of goods (as set out in Appendix 6) shall occupy more than 50% of the sales area devoted to comparison goods.

7.52 Concerns still exist regarding the scale of comparison goods being sold within food stores and the potential impact of this on the City Centre and District Centres. The application proposes convenience floor space of 1,050m² and comparison floor space of 265m². Should members be minded to approve the application it is recommended that a condition is attached to restrict the floorspace devoted to the sale of comparison goods to 265m² and that no single group of goods as set out in Appendix 6 of the Local Development Plan shall occupy more than 50% of this sales area for comparison goods.

7.53 **The proposal is in accordance with Policy 24 subject to a condition.**

7.54 **Policy 28: Protecting and Enhancing the Dundee Green Network** - development proposals shall protect and enhance the Dundee Green Network by ensuring that development will not lead to the fragmentation of the existing network of green infrastructure. New development should contribute to the Dundee Green Network where appropriate and as determined by the Council, through the integration of green infrastructure in masterplans or development frameworks and the creation and/or improvement of green infrastructure within development sites or in the local area.

7.55 As outlined previously in the report, a meeting was held with the applicant's agents and discussion highlighted an opportunity to improve connectivity to the application site from the east through the development of a safe footpath link from Linlathen Lane to Tom Johnston Road through Council owned land and an area of land owned by James Keiller Estates (see Figure 5). Linlathen Lane is accessed from Linlathen Road which is part of the core path network.

7.56 The core path network runs along the south side of the Arbroath Road (A92) and as outlined previously the applicant proposes to improve the pedestrian link on the north side of the A92 to Tom Johnston Road and the application site as part of the proposed development.

7.57 The proposals to improve footpath links to the application site would enhance the Dundee Green Network. It is recommended that, should members be minded to approve the application, a S75 planning obligation would be an appropriate mechanism to secure a footpath with a protective guardrail on the northern verge of the A92 and secure a footpath link from Linlathen Lane to the east of the application site to Tom Johnston Road (Figure 5).

These would be required to be provided and in place prior to the opening of the proposed foodstore. This would ensure suitable improvements to walking and cycling routes as part of the wider Dundee Green Network are provided by the developer to improve the connectivity and accessibility of the site for the residential areas the proposed development is intended to serve.

7.58 **The proposals are in accordance with Policy 28 subject to a Planning Obligation.**

7.59 **Policy 29: Outdoor Access and the Dundee Green Network** - the Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the Core Path network and routes identified in the Dundee Cycling Strategy which support the development of the Dundee Green Network. When considering development proposals the Council will:

- 1 safeguard the line of any existing or proposed outdoor access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed;
- 2 seek to secure any additional outdoor access opportunities which may be achievable as a result of the development; and
- 3 where an outdoor access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.

7.60 With regards to No 2 above, the core path network runs adjacent to the Principal Economic Development Area and is located along the south side of the Arbroath Road (A92); to the west on Baldovie Road and to the east of the site on Linlathen Road. The Dundee Cycling Strategy identifies long term aspirations to improve infrastructure in this area.

7.61 As outlined in Policy 28, the proposals to improve footpath links to the application site would enhance the Dundee Green Network. It is recommended that, should members be minded to approve the application, a S75 planning obligation would be an appropriate mechanism to secure a footpath with a protective guardrail on the northern verge of the A92 and secure a footpath link from Linlathen Lane to the east of the application site to Tom Johnston Road (Figure 5). These would be required to be provided and in place prior to the opening of the proposed foodstore. This would ensure suitable improvements to walking and cycling routes as part of the wider Dundee Green Network.

7.62 **The proposals are in accordance with Policy 29 subject to a Planning Obligation.**

7.63 **Policy 36: Flood Risk Management** – this policy states that a flood risk assessment will be required for any development within the Medium to High risk category. In Low to Medium Risk Areas a flood risk assessment may be required at the upper end of the probability range or where the nature of the development or local circumstances indicates heightened risk. These areas are generally not suitable for essential civil infrastructure. Where such infrastructure must be located in these areas, it should be capable of remaining operational and accessible during extreme flooding events.

7.64 The Dighty Water is to the north of the application site and maps show that the northern section of the application site is located within the Dighty Flood Model. As such a Flood Risk Assessment (FRA) was requested and submitted with the application.

7.65 SEPA was consulted and noted that, the application site lies adjacent to the medium likelihood (0.5% annual probability or 1 in 200 year return period) fluvial flood extent of the SEPA Flood

Map, and may therefore be at medium to high risk of flooding. SEPA have no objection to the application on flood risk grounds. They recommend that the Council, as the Flood Risk Management Authority, should comment on the requirements for the management of surface water at the application site including any mitigation measures. Drainage calculations should be undertaken using the FEH13 depth duration frequency statistics.

- 7.66 Council Engineers advised that the FRA must demonstrate that any discharge rate proposed from the surface water system would not increase flood risk elsewhere along the Dighty. They confirmed that the submitted FRA demonstrates that the surface water system would not increase flood risk on the Dighty.
- 7.67 **The proposal is in accordance with Policy 36.**
- 7.68 **Policy 37: Sustainable Drainage Systems** - surface water discharging to the water environment from new development must be treated by a Sustainable Drainage System (SuDS) except for single houses or where discharge is to coastal waters. SuDS should be designed so that the water level during a 1:200 year rainstorm event plus allowances for climate change and future urban expansion is at least 600mm below finished floor levels. This incorporates an allowance for the effect of climate change. In addition, proposals will be encouraged to adopt an ecological approach to surface water management, ensure an appropriate level of treatment and exploit opportunities for the system to form an integral part of the Dundee Green Network through habitat creation or enhancement through measures such as the formulation of wetlands or ponds. Proposals should have no detrimental impact on the ecological quality of the water environment.
- 7.69 Drainage Plans have been submitted and these show that due to the dense nature of the proposed development it is proposed to utilise porous paving within parking bays to provide two levels of treatment including the use of a porous surface and a granular stone sub base under the parking bays. Filter trenches will be utilised to treat surface water runoff from the roofs of the proposed retail units. A micro drainage model has been submitted with calculations to show that any flooding occurring from a storm event in excess of a 1 in 200 year event plus 30% climate change will be retained within the car park and low lying landscaped areas at the surface with no flooding occurring to any of the proposed buildings or adjacent properties.
- 7.70 Surface water flows are to be directed to the existing public surface water sewer within Tom Johnston Road to the north of the site. The flows will be restricted to a greenfield predevelopment flow rate of 3.5 l/s and discharged to the public surface water sewer network to the north of the site with attenuation provided within the development. This attenuation will be in the form of cellular storage with some attenuation being provided within the sub base of the porous parking bays. Water levels within the attenuation systems will be greater than 600mm below the FFL of the proposed buildings. The supporting documents state this will have little impact on the flood levels of the Dighty Water during extreme flood events.
- 7.71 The supporting drainage documents have been reviewed by Council Engineers and confirmed as acceptable. However further detailed information is required on maintenance responsibilities; the management of surface water during the construction phase and confirmation that Scottish Water approval has been received for the proposed drainage system. It is recommended that this is secured by condition should members be minded to approve the application.
- 7.72 **The proposal is in accordance with Policy 37, subject to conditions.**
- 7.73 **Policy 39: Environmental Protection** – states that all new development or an extension to an existing development that would generate noise, vibration, odour, emissions to air, dust or

light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing development in close proximity to existing sources of noise, vibration, odour, emissions to air, dust or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses.

7.74 The Head of Community Safety and Protection was consulted and has recommended that conditions to control the servicing of the site out with night time hours; to control noise from mechanical and electrical plant/services and to control the operating hours of the retail food store are attached to any planning permission granted to ensure that the amenity of the residents to the south of the site are not negatively impacted by noise from the development site.

7.75 The Head of Community Safety and Protection has also advised that records show that Giant Hogweed, an invasive species, grows in the area and has recommended that a condition is attached to any planning permission granted to request that the developer prepare a treatment plan to control the plant and its spread.

7.76 **The proposal is in accordance with Policy 39 subject to conditions.**

7.77 **Policy 41: Land Contamination** – states that:

a Development of potentially contaminated or statutorily identified contaminated land will be considered where:

- 1 a site investigation is submitted establishing the nature and extent of contamination; and
- 2 the Council is satisfied that remediation measures proposed for the development, adequately address contamination risks to all receptors, such that the land demonstrably does not meet the statutory definition of contaminated land and is suitable for the planned use.

b An alternative use to that identified in the Local Development Plan will be considered where the above criteria are satisfied and:

- 4 an economic appraisal establishes that the site cannot be economically developed for the allocated use due to the level or type of contamination; and
- 5 the proposed use meets the requirements of other relevant policies of the Local Development Plan.

7.78 Phase I and II survey reports have been submitted with the application. The Head of Community Safety and Protection has reviewed the survey reports and found them acceptable. It is recommended that a condition is attached to any planning permission granted to request a remediation strategy is submitted to the Council for written approval prior to the commencement of development.

7.79 **The proposal is in accordance with Policy 41 subject to conditions.**

7.80 **Policy 44: Waste Management Requirements for Development** - development proposals should demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012.

- 7.81 No details for managing waste as part of the development proposals have been submitted. It is recommended that a condition is attached to any planning permission granted to request that full details to demonstrate that sufficient provision has been made to maximise waste reduction and separation in line with Policy 44 is submitted to the Council for written approval prior to the commencement of development.
- 7.82 **The proposal is in accordance with Policy 44 subject to condition.**
- 7.83 **Policy 48: Low and Zero Carbon Technology in New Development** - proposals for all new buildings will be required to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technologies. The relevant Building Standards and percentage contribution required is set out in supplementary guidance. The supplementary guidance will be kept under review to ensure the proportion of the carbon emissions reduction standard to be met by these technologies will increase over time. A statement will be required to be submitted with an application for planning permission to demonstrate compliance with this requirement.
- 7.84 The Supporting Documents submitted provide no specific detail to demonstrate the installation and operation of low and zero carbon generating technologies as part of the development proposals. It is recommended that a condition is attached to any planning permission granted to ensure that a statement is submitted to demonstrate compliance with the requirements of Policy 48 for approval by the Council prior to the commencement of development.
- 7.85 **The proposal is in accordance with Policy 48 subject to condition.**
- 7.86 **Policy 54: Safe and Sustainable Transport** - all development proposals* that generate travel should be designed to be well served by all modes of transport. In particular the sustainable modes of walking, cycling and public transport should be afforded priority and provide for easy access to local amenities, education facilities and other services.

*this includes the re-use of existing buildings

Development proposals will be required to:

- 1 minimise the need to travel by private car;
- 2 provide facilities on-site (and/or off-site through developer contributions or by direct delivery) for walking, cycling and public transport networks, including road/junction improvements and cycle parking. Developments without high quality, safe and convenient links to adjacent walking and cycling networks will not be supported;
- 3 incorporate measures to permit access to public transport networks within a walking distance of no more than 400 metres from all parts of the development;
- 4 have no detrimental effect on the capacity or safe functioning of the existing road or rail networks;
- 5 ensure that safe and adequate provision is made for road freight and waste access, loading and unloading;
- 6 comply with the National Roads Development Guide and any local variations within Dundee City Council's roads design standards; and

- 7 be supported by a travel plan to mitigate transport impacts and improve the accessibility of developments where the council considers that the development will generate significant travel.

Walking and cycling routes should be fully useable prior to the first occupation of a new development.

In respect of the above criteria:

- 1 As outlined previously in the report, this out-of-centre location encourages reliance on the car. The applicant has failed to offer a suitable solution and to fully demonstrate that this out-of-centre location is or can be made easily accessible by a choice of transport modes. The proposal does not satisfy this criterion. Should members be minded to approve the application it is recommended that off-site facilities for walking and cycling be enhanced and public transport provision be secured in line with this criterion and it is recommended that this should be managed through developer contributions as outlined previously in Policy 20.
- 2 The applicant has failed to offer a suitable solution to provide safe and convenient links to adjacent walking and cycling networks. The proposal does not satisfy this criterion. Should members be minded to approve the application it is recommended that off-site facilities for walking and cycling be enhanced and public transport provision be secured in line with this criterion and it is recommended that this should be managed through developer contributions as outlined previously in Policy 20.
- 3 In line with this requirement, the applicant proposes to provide a bus stop on Tom Johnston Road on the western boundary of the development site to be serviced by the existing No 88 bus service currently operated by Moffat & Williamson. As reported previously, this service is limited and currently funded by Sainsbury's through a S75 obligation. Should members be minded to approve the application it is recommended that a bus service should be secured through developer contributions as outlined previously in Policy 20.
- 4 The Transport Assessment confirms that the proposal would not have a detrimental effect on the capacity or safe functioning of the existing road network. However given the uncertainty of the use class for the proposed business units, it is recommended that a condition is attached to any planning permission granted to request that the initial use for each unit is confirmed in writing to the Council prior to the occupation of any unit. This would allow any potential road and parking issues arising from the use to be addressed prior to occupation. The proposal satisfies this criterion subject to condition.
- 5 As highlighted previously in the report, given the uncertainty of the use class for the proposed business units, it is recommended that a condition is attached to request that the initial use for each unit is confirmed in writing to the Council prior to occupation should members be minded to approve the application. This would ensure that safe and adequate provision is made for road freight and waste access, loading and unloading. The proposal satisfies this criterion subject to condition.
- 6 The proposed accesses to the site do not meet current standards however the location of these is acceptable. It is recommended that a condition is attached to any planning permission granted to request that the details of the proposed vehicle access are agreed in writing prior to any works on site and that the accesses must be formed and constructed to Dundee City Council standards and specifications should members be minded to approve the application. The proposal satisfies this criterion subject to condition.

7 The Transport Assessment outlines that a Travel Plan Co-ordinator will be identified to promote the use of alternative modes of travel to the proposed retail store. A monitoring programme will be introduced and incentives. It outlines that the company will increase awareness of the alternatives modes of travel available and examine and process comments and suggestions from staff and customers in relation to improving access to the development by alternative modes. As highlighted previously in the report this out-of-centre location encourages reliance on the car. Should members be minded to approve the application it is recommended that off-site facilities for walking, cycling and public transport networks be enhanced and this should be secured through developer contributions.

7.87 Overall this out-of-centre location encourages reliance on the car. The applicant has failed to offer a suitable solution to fully demonstrate that this out-of-centre location is or can be made easily accessible by a choice of transport modes for the proposed non-conforming use.

The proposal is not in accordance with Policy 54.

7.88 **Policy 56: Parking – Developments outwith City Centre** - All new developments shall be required to comply with Dundee City Council's adopted guidance on road standards; with the national maximum parking standards; and the national minimum disabled parking standards. All parking facilities at commercial developments should include the provision of charging stations for electric vehicles. All new developments should include cycle parking facilities in accordance with Dundee City Council's adopted guidance on roads standards and the Appendix 4 design standards. At places of employment covered secure parking with changing facilities should be provided for employees.

7.89 As outlined previously in the report, there is uncertainty regarding the use class for the proposed business units and as such it is recommended that a condition is attached to any planning permission granted to request that the initial use for each unit is confirmed in writing to the Council prior to occupation. This would allow any potential parking issues arising from the use to be addressed prior to occupation.

7.90 The site plan and supporting documents show electric car charging points would be provided within the store staff parking area however these are also required for the small industrial units. It is recommended that a condition is attached to any planning permission granted to secure this and to request that the infrastructure is provided within the public car park to allow for electric car charging points in the future should members be minded to approve the application.

7.91 The Transport Assessment outlines that, in line with this policy, covered secured parking will be provided for staff together with changing facilities and lockers.

7.92 **The proposal is in accordance with Policy 56 subject to conditions.**

7.93 **It is concluded that the proposal is not in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

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

A – APPLICANT'S SUPPORTING INFORMATION

7.95 The applicant has submitted a number of supporting documents and this section outlines the case put forward by the applicant in each document and then offers a response.

Planning and Retail Statement

- 7.96 This outlines that Aldi is seeking to operate up to five foodstores to serve Dundee's residents. They currently operate from two stores, at Arbroath Road which serves parts of the East End and Maryfield communities, and The Stack (Lochee), serving the Colleside and Lochee neighbourhoods. A third store at Myrekirk Road is currently under construction, and is expected to open in August 2019 to serve the west of the city.
- 7.97 The proposed development is designed to meet demands in the eastern area of the city, comprising the Mid-Craigie, Douglas and Broughty Ferry communities in addition to those living in Monifieth, Angus. It reports that 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.
- 7.98 It highlights that the site is long term vacant, has been allocated for employment uses for 13 years and marketed, without significant interest, for 10 years.
- 7.99 The applicant has attempted to justify why the non-conforming retail use should be permitted within the Principal Economic Development Area by setting out the economic impact of the proposed development. This justification considers the potential jobs created by the development and the gross value added from those jobs. The supporting document highlights that the retail development would create 35 permanent new jobs and the new business space would create 4-24 jobs.
- 7.100 To support the case for permitting a non-conforming foodstore development within a Principal Economic Development Area the applicant has explained that the development of the business units and higher value development of the foodstore would cross fund the development of additional business units on a nearby site that is within the same ownership. The other site is located further east along Tom Johnston Road and a planning application for Planning Permission in Principle for the development of 2 business units with a total floorspace of 929m² (10,000 square feet) has been submitted concurrently with this planning application (reference 19/00196/PPPL).
- 7.101 The report provides information to support the proposals against the requirements of the development plan. In particular, detailed information has been presented in support of Policy 21 (Town Centre First Principle) which has already been addressed in this report.

Response

- 7.102 Quantitative and Qualitative Deficiency – as outlined in Policy 21, given the existing availability of major foodstores and District Centres serving the eastern part of the city, it is considered that there is no deficiency to be addressed at this time. There is therefore no deficiency for food retailing (including convenience) that cannot be met within the existing centres.
- 7.103 Class 1 Use - the report makes reference to the differences in format and product lines which sets the proposed discount foodstore apart from other foodstores, such as Sainsbury's, but it is the use class which should be considered rather than the product range/identity/calibre of the operator. What is being sought is planning permission for a Class 1 retail use which could ultimately be operated by any retailer.
- 7.104 Economic Activity - the West Pitkerro Industrial Estate is currently trading well with high levels of occupancy across the existing units. Within the Principal Economic Development Area, on vacant land to the east of the application site, planning permission was granted in January 2019 for 10no industrial units, offices and a service yard (18/00537/FULL). A further application was submitted in May 2019 for 12no industrial units and additional offices

(19/00321/FULL). This highlights that demand exists for this high quality employment land in this part of the city. Removing small areas of land for a non-conforming use would fragment a well-defined and homogenous business area and make the area less attractive for future economic development opportunities. Further the proposal would draw members of the public onto industrial roads creating road safety issues and amenity conflicts which could harm economic activity for businesses operating in the area.

- 7.105 Economic Impact of the Proposed Development - if the foodstore were to result in a net increase in jobs then this would be a consideration in favour of the development. In their planning and retail statement the applicant concludes that a new foodstore in this location will displace trade from the existing foodstores in the city. By the same reasoning, any resulting job creation will be as a result of the displacement of jobs from those other stores. Therefore in real terms no new jobs would be created and the net benefit of the foodstore would be minimal.

Other than noting that Aldi pay above the living wage no information has been provided on the types of job contracts that would be available. It is reasonable to assume that the jobs within the store would be relatively unskilled and lower paid than the jobs that could be created if the floorspace were to be occupied by uses within use classes 4, 5 and 6 – the uses that are supported within the Principal Economic Development Area.

The applicant has included analysis of the jobs that could be created by the proposed foodstore and business units in order to demonstrate the total number of jobs that the proposed development could create. The same analysis can be used to demonstrate the potential number of jobs that could be created if the same floorspace were to be developed for uses classes 4, 5 and 6. In that scenario the floorspace would generate between 16 and 52 jobs. Whilst the total number of jobs is lower than the 35 foodstore jobs, the potentially higher skilled roles and higher salary of employees within classes 4, 5 and 6 could have a greater and more positive economic impact on the city than the development of the foodstore.

The foodstore element of the proposal is likely to displace similar jobs from elsewhere in the city with no net increase in jobs. The development of the same floorspace for a conforming class 4, 5 or 6 use would generate a similar number of jobs, and it is likely that these would be more skilled and offer higher salaries than those within the proposed foodstore. Therefore limited weight should be attached to the benefits of job creation arising from the foodstore element of the proposed development.

- 7.106 Gross Value Added – the applicant has also included analysis to demonstrate the Gross Value Added arising from the development once built. These are the wider capital and employment benefits arising from the additional expenditure in the local economy and through the businesses' supply chain.

Their analysis demonstrates that the foodstore element could generate Gross Value Added of £846,650 per annum (2016 prices). The same analysis can be used to demonstrate the potential Gross Value Added of the foodstore unit if the same floorspace were developed for classes 4, 5 and 6 uses. Using the applicant's own multipliers demonstrates that a Class 4 use of the same net floorspace would generate a Gross Value Added of £2,061,304; Class 5 would generate £2,584,561; and class 6 would generate £846,784. It is clear from this brief analysis that the development of this floorspace for the non-conforming foodstore use would generate significantly lower Gross Value Added in comparison to the development of the same floorspace for the conforming class 4, 5 and 6 uses.

The Gross Value Added arising from the development would be significantly less for the proposed foodstore use of the site than the development of class 4, 5 and 6 on the site.

Therefore no weight should be attached to the Gross Value Added arising from the foodstore element of the proposed development.

- 7.107 Viability of Business Unit Development - the applicant has noted in the supporting information that the development of business units on the other Tom Johnston Road site would result in a loss of between £544,798 and £618,610. The applicant attributes this loss to the upfront costs of delivering the business units and low rental rates that would be received and that it highlights the need for cross-funding from higher value land uses to make such a development viable.

It is noted that in January 2019 another site on Tom Johnston Avenue was granted full planning permission for the development of 16no. Class 4 business units with a total floor area of 1,568m² (Reference 18/00537/FULL). The same applicant has recently applied for full planning permission for a further 12no. Class 4 business units with a total floor area of 1,728m² on the remainder of the site (Reference 19/00321/FULL).

These proposed units are similar in size and type to those proposed on the application site and those proposed to be cross funded. These applications indicate that there is developer interest in the area. The applicant in these cases did not highlight any issues with the viability of developing business units in this part of Dundee and did not seek to develop non-conforming uses as enabling development.

There is also evidence elsewhere in Dundee of activity in the development of business units of a similar type and size to those proposed within the enabling development.

Business units have been developed or are in the process of being developed elsewhere in the city with the development of 13no. business units with a total floor area of 1,564m² completed in Kirk Street, Lochee in 2015, and work commencing on the development of 34 business units (2,047m²) at Loons Road, and 8 business units (1,100m²) at Dunsinane Industrial Estate. A planning application has also been submitted for the development of business units at the former Tesco warehouse on Baird Avenue.

Although the cross funded business units are located on brownfield land the previous use was as a plant nursery and there are no significant ground or other constraints to the development that would incur extraordinary development costs.

None of these other proposals have sought enabling development and none have highlighted any particular issues with developing what are in some cases long term vacant brownfield sites with site constraints such as demolitions, and poor ground conditions.

Whilst some of these developments are yet to commence this does still demonstrate that there is real interest in developing new business space within the city without the need for cross funding from non-conforming development and brings into question the applicant's justification.

Therefore no weight should be given to the applicant's statement that the business units proposed to be cross funded by the foodstore are not viable without cross funding from the high value land use.

Economic Land Report and Marketing Appraisal

- 7.108 The report highlights that the industrial site has been on the market since August 2009 and actively marketed by James Keiller Investments and J&E Shepherd for a number of years. It outlines the market for industrial land in Dundee and considers that rental growth is not at a scale to stimulate construction of new industrial space. It notes West Pitkerro is one of Dundee's more modern industrial estates. It reports the significant amount of economic land

in Dundee, over 29 years worth, with very little actual take up and highlights the Reporter's observation within the Examination Report of the Local Development Plan 2019 that 'Dundee has a very generous supply of business land, far in excess of the five year minimum requirement which is programmed to grow still further'. As a result, the loss of the proposed development would have an inconsequential impact on the supply economic land in Dundee.

Response

- 7.109 As noted previously in the report, the West Pitkerro Industrial Estate is currently trading well with high levels of occupancy across the existing units. Planning permission was granted in January 2019 for 10no industrial units, offices and a service yard (18/00537/FULL). A further application was submitted in May 2019 for 12no industrial units and additional offices (19/00321/FULL). This highlights that demand exists for this high quality employment land.
- 7.110 The Business Land Audit 2019 is the most recent of the annual audits of the supply and take up of business within the Dundee City Council area and is the main tool for monitoring the city's supply of business land. It is acknowledged that in purely quantitative terms there is a generous supply. However, this does not take into account the qualitative approach required by Scottish Planning Policy and TAYplan SDP that ensures that this generous supply supports a diverse range of industrial requirements. The Local Development Plan safeguards land of varying types in a variety of locations across the City to ensure there is a wide range of opportunities for new and indigenous business investment.
- 7.111 In addition, there has been continued investment in existing and new business premises which both secures existing jobs and creates jobs directly and indirectly through construction and the supply chain. This investment has been made by large and small businesses, on sites across the city and across a variety of sectors including engineering, manufacturing, oil and gas decommissioning and servicing activities.
- 7.112 This take up and the business activity highlights the wide range of businesses in Dundee and the need for the City to maintain a generous supply of business land of varying sizes and in varying locations to ensure that the City can readily respond to the needs of inward investors and those indigenous businesses already located within the City of Dundee.
- 7.113 Whilst almost all of the City's Economic Development Areas contain vacant land and buildings there is a general turnover of stock as land is developed and buildings are refurbished, reoccupied or redeveloped. This turnover is seen across the city as businesses choose to locate or grow within Dundee.
- 7.114 Reducing the business land supply by relaxing the policy approach would reduce the quality and diversity of business land in Dundee. This will not help to deliver the aims of the Dundee Economic Strategy and could mean that Dundee cannot respond quickly to meet the needs of inward investors or expanding indigenous businesses.
- 7.115 In attempting to justify the development of a non-conforming land use within a Principal Economic Development Area the applicant has provided no substantive justification to demonstrate that the policies within the Dundee Local Development Plan should be set aside.
- 7.116 This strengthens the case for retaining the site for development for land uses within use classes 4, 5 and 6 in accordance with the Principal Economic Development Area designation.
- 7.117 The applicant's supporting documents are not of sufficient weight to justify approval of the application contrary to the development plan.

B – DUNDEE RETAIL STUDY 2015

- 7.118 The Dundee Retail Study 2015 was commissioned to inform the preparation of the Local Development Plan. The scope of the Study was to analyse policy and emerging policy; review national, regional and local trends; undertake a qualitative assessment of Dundee's retail offer; undertake a retail capacity study; and provide specialist advice on the range of goods restrictions.
- 7.119 The submitted Planning and Retail statement makes reference to the availability of spare convenience and comparison expenditure which was reported by the Dundee Retail Study 2015. However, the Retail Study was also very clear to advise that the forecasts of spare convenience and comparison expenditure capacity should be directed to support the existing network of centres and that failure to achieve this risks weakening the established centres, which would be counterproductive (Section 11.2.1, page 49). Therefore the information put forward in the Planning and Retail statement submitted by the applicant in relation to the forecast spare expenditure should be read in that context.
- 7.120 The Dundee Retail Study advises to strongly apply the restrictions on out of centre development proposals set out in the Local Development Plan in order to maintain and strengthen the vitality and viability of the established centres.
- 7.121 It is concluded that the Dundee Retail Study does not offer support for the application.

C – SCOTTISH PLANNING POLICY 2014

- i Scottish Planning Policy 2014 (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.

The 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.”

In accordance with SPP’s ‘town centre first approach’ the City Centre and District Centres are the preferred locations for uses that generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities.

The proposal would not address the requirements of Scottish Planning Policy 2014 and the Town Centres First approach as the retail use would be outwith the City Centre/District Centre.

- ii Scottish Planning Policy 2014 (SPP) states that ‘*Planning should direct the right development to the right place*’. This requires spatial strategies within development plans to promote a sustainable pattern of development appropriate to the area. The principle of locating development where investment in growth or improvement would have most benefit for the amenity of local people and the vitality of the local economy should be followed.

In accordance with SPP and through alignment with the Dundee Economic Strategy, the Local Development Plan supports sustainable economic growth and the growth of key sectors, providing a land use planning context for Dundee that increases enterprise and encourages businesses to invest and create jobs. It does this by designating parts of the city as Economic Development Areas.

The application site is within a long established and well located Principal Economic Development Area. There is a large area of greenfield Principal Economic Development Area at Linlathen only a short distance from the application site which could accommodate businesses looking to locate to this part of the city. However, in contrast to the greenfield land at Linlathen, the application site is serviced and ready for development. It would therefore be quicker and require less upfront investment to bring forward development on the application site allowing this part of the city to respond rapidly to the demands for new business investment.

The retail element of the proposal would result in the loss of high quality, serviced, accessible business land. This would fail to support the Local Development Plan strategy, TAYplan Strategic Development Plan and Scottish Planning Policy.

D – REPRESENTATIONS

7.122 Four objections have been received raising the following valid material grounds:

- contrary to Local Development Plan Policy 21 Town Centre First Principle;
- contrary to Scottish Planning Policy;
- significant detrimental effect on the vitality and viability of Broughty Ferry District Centre;
- inaccurate information on public transport provision provided in the supporting documents;
- detrimental impact on current roads system due to increased volume of traffic;
- poor location in that Arbroath Road forms a substantial barrier to pedestrian custom; largely aimed at car-borne custom; better pedestrian links required;
- any jobs arising from this proposal would inevitably lead to losses elsewhere in the already crowded retail sector;
- fails to satisfy Policy 56 Parking which states all parking facilities at commercial development should include the provision of charging stations for electric vehicles;
- potential impact on the allocated centres;
- the Transport Assessment under-estimates the development impact which in turn underplays the impact on the road network; and
- potential conflict in operation of service yard for business units and foodstore and staff car parking if not adequately managed.

7.123 The grounds of objection are considered and assessed as follows:

Objection – contrary to Local Development Plan Policy 21 Town Centre First Principle.

Response – as outlined in the policy assessment, Section 7 of the report, this proposal fails to satisfy Policy 21 Town Centre First Principle.

Objection – contrary to Scottish Planning Policy.

Response – as outlined in the policy assessment and material considerations the proposal fails to satisfy Scottish Planning Policy.

Objection - significant detrimental effect on the vitality and viability of Broughty Ferry District Centre.

Response – this report highlights that the proposed out-of-centre location will result in the loss of linked trips to Broughty Ferry District Centre which will have a cumulative impact upon the District Centre as a whole. The Dundee Retail Study 2015 identifies the drawing of expenditure and associated footfall to out of centre retail development as one of the threats to the City Centre and District Centres.

Objection - inaccurate information on public transport provision provided in the supporting documents.

Response - the Transport Assessment outlines the public transport provision serving the immediate surrounding area. However, in response to the information supplied in the Transport Assessment there is no public transport provision to the site or nearby the site. There is a bus service run by Sainsbury's to link the store with central Broughty Ferry and this service is limited in terms of the area it covers and its frequency. Should members be minded to approve the application it is recommended that off-site facilities for walking, cycling and public transport networks be enhanced and this should be secured by direct delivery or through developer contributions.

Objection - detrimental impact on current roads system due to increased volume of traffic.

Response – the Transport Assessment has been assessed by Council Engineers who are comfortable that there will be minimal traffic impact from the proposed development on the key junctions in the area. The Council's Urban Traffic Control system (UTC) will automatically adjust to handle the minimal change.

Objection - poor location in that Arbroath Road forms a substantial barrier to pedestrian custom; largely aimed at car-borne custom; better pedestrian links required.

Response – this report highlights that there is a limited choice of sustainable transport modes to this out-of-centre location and as a consequence this encourages reliance on the car. The applicant has failed to fully demonstrate that this out-of-centre location is, or can be, made easily accessible by a choice of transport modes. The application is contrary to policy however should members be minded to approve the application it is recommended that off-site facilities for walking, cycling and public transport networks be enhanced and this should be secured by direct delivery or through developer contributions.

Objection - any jobs arising from this proposal would inevitably lead to losses elsewhere in the already crowded retail sector.

Response - the report highlights this would be the case.

Objection - fails to satisfy Policy 56 Parking which states all parking facilities at commercial development should include the provision of charging stations for electric vehicles.

Response – the report notes this and recommends a condition is attached to any planning permission granted to secure this should members be minded to approve the application.

Objection - potential impact on the allocated centres

Response – as noted previously in this report, the proposed development would lead to the creation of an enlarged retailing area, similar to the scale of retail parks found in Commercial Centres and District Centres, to the potential detriment of the Broughty Ferry District Centre.

Objection - the Transport Assessment under-estimates the development impact which in turn underplays the impact on the road network.

Response – the Transport Assessment has been assessed by Council Engineers who are comfortable that there will be minimal traffic impact from the proposed development on the key junctions in the area.

Objection - potential conflict in operation of service yard for business units and foodstore and staff car parking if not adequately managed.

Response – this report highlights that there may be roads, parking and amenity matters to address depending on the use class of the business units. The report recommends that should members be minded to approve the application a condition is attached to request that the initial use for each unit is confirmed in writing to the Council together with full details of any plant, machinery, ventilation or additional development such as yard space, additional parking or enclosures, required to enable the use to function, are submitted to the Council for the record prior to the occupation of any unit. This would also allow any potential conflict to be addressed prior to the units being occupied.

7.124 Three representations in support of the application have been received raising the following valid planning matters:

- Job creation; and
- Improve shopping provision.

7.125 The issues raised in the representations have been considered and addressed in the report and the grounds raised are of not of sufficient weight to justify approval of planning permission.

7.126 **It is concluded that there are no material considerations of sufficient weight in this case to justify approval of planning permission.**

8 CONCLUSION

8.1 The application for the erection of a Class 1 retail foodstore and 2no units (Class 4, 5 and 6) with ancillary trade counter, associated car parking, access, landscaping and other works is not in accordance with the Development Plan. There are no material considerations of sufficient weight that would justify approval of planning permission. Therefore it is recommended that planning permission be refused.

9 RECOMMENDATION

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

- 1 **Reason** – the proposed development is contrary to Policy 1 and Appendix 1 (High Quality Design and Placemaking) of the Dundee Local Development Plan 2019 as the proposed retail element of the proposal fails to respect the character of this largely homogenous business area and will introduce a non-conforming use which could impact negatively on the wider economic development area. The applicant has failed to fully consider the relationship of the proposed development in the context of the wider area. There are no material planning considerations of sufficient weight to justify approval of the application contrary to the development plan.
- 2 **Reason** – the proposed development is contrary to Policy 3 (Principal Economic Development Areas) of the Dundee Local Development Plan 2019 as the proposal for a Class 1 retail use on the southern portion of the site would fragment a largely well-defined and homogenous business area. The proposal would draw members of the public onto industrial roads creating road safety issues and amenity conflicts which could harm economic activity for businesses operating in the area. The application site is a high quality site in a highly visible and accessible location. Reducing the business land supply by allowing the retail element of this proposal would reduce the quality and diversity of business land in Dundee. There are no material planning considerations of sufficient weight to justify approval of the application contrary to the development plan.
- 3 **Reason** – the proposed development is contrary to Policy 21 (Town Centre First Principle) of the Dundee Local Development Plan 2019 as the application site is out-of-centre and the applicant has failed to demonstrate that the application site is or can be made easily accessible by a choice of transport modes; the applicant has failed to demonstrate that the proposal would not prejudice the vitality or viability of the City Centre, District Centres or Commercial Centres; locating such a development at an out-of-centre site would fail to encourage additional expenditure within, and improve the vitality and viability of, the City Centre and District Centres; there is no deficiency for food retailing (including convenience) that cannot be met within the existing centres. There are no material planning considerations of sufficient weight to justify approval of the application contrary to the development plan.
- 4 **Reason** – the proposed development fails to satisfy Policy 54 (Safe and Sustainable Transport) of the Dundee Local Development Plan 2019. There is a limited choice of sustainable transport modes to this out-of-centre location and as a consequence this encourages reliance on the car. The applicant has failed to offer a suitable solution to fully demonstrate that this out-of-centre location is or can be made easily accessible by a choice of transport modes. There are no material planning considerations of sufficient weight to justify approval of the application contrary to the development plan.