

REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE

REPORT ON: REPORT OF PUBLIC LOCAL INQUIRY INTO THE FINALISED DUNDEE LOCAL PLAN REVIEW - MAJOR FOODSTORE ISSUES

REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION

REPORT NO: 60-2005

1 PURPOSE OF REPORT

- 1.1 This report relates to selected recommendations in the Report of the Public Local Inquiry to examine objections to the Finalised Dundee Local Plan Review. These recommendations are material considerations in respect of a number of planning applications for major foodstore and related proposals that will be considered at Public Local Inquiries commencing in March 2005. Approval of Appendix 1 to this Report is sought as the Council's initial response to these recommendations.

2 RECOMMENDATION

- 2.1 It is recommended that
- a the content of this Report is noted;
 - b Appendix 1 to this Report is approved as the Council's initial response to the recommendations contained in the Report of the Public Inquiry into Objections to the Finalised Dundee Local Plan Review in relation to major foodstore issues. This response, if approved, will be reflected in the City Council's position at the forthcoming Public Local Inquiries into major foodstore and related proposals, programmed to commence in March 2005;
 - c extracts from the PLI Report relevant to the major foodstore issues and covered in Appendix 1 to this report be made publicly available;
 - d this report be referred to the Development Quality Committee for information as a material consideration in making planning decisions, including the determination of planning applications; and
 - e a full report on the Report of the Public Local Inquiry into Objections to the Finalised Dundee Local Plan Review will be submitted to the Planning and Transportation Committee at the earliest opportunity.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising for Dundee City Council as a direct result of this report.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 This report relates to objections that were submitted in response to the Finalised Dundee Local Plan Review. The Local Plan is a vitally important document for the identification and progression of the city council's aims and objectives on a wide range of economic, social and environmental issues. The advancement of the

Dundee Local Plan Review will positively influence, to a greater or lesser degree, the achievement of virtually all of the key themes identified in Dundee 21.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 The Dundee Local Plan Review represents a major land use planning document through which the City Council can advance many of its corporate strategies. In taking forward the Local Plan Review, regard has been had to the need to promote equality of opportunity.

6 BACKGROUND

- 6.1 Reference is made to Article XVII of the meeting of the Planning and Transportation Committee in June 2004 advising the Committee that the Public Local Inquiry into objections to the Finalised Dundee Local Plan Review had been completed. This Inquiry, which lasted 6 weeks and was conducted by two Scottish Executive Reporters, considered 170 objections covering 35 topics.
- 6.2 The Report of this Public Local Inquiry (PLI Report) was received on 20 December 2004. The PLI Report makes recommendations to the City Council in respect of each objection that was considered at the Inquiry.
- 6.3 Under the terms of the Town & Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 the Council is required to consider the Report of the Public Local Inquiry and decide whether or not to modify the Local Plan in the light of its recommendations and to prepare a statement of their decisions. A report fulfilling this statutory requirement will be submitted to the Planning and Transportation Committee at the earliest opportunity. Until this Report is presented to Committee it is not considered appropriate that the PLI Report be made publicly available.
- 6.4 Forthcoming Public Local Inquiries into Major Foodstore and Related Proposals

Members will be aware that Public Local Inquiries into the planning applications detailed below for major foodstore and related proposals are programme to commence in March 2005:

- Planning Application 00/24809/D: proposed food superstore (8,300m²), petrol filling station, formation of roundabout/access, car parking and ancillary works at South Road/Myrekirk Road, Dundee. This application was called in for determination by Scottish Ministers on 6 May 2004;
- Planning Application 03/00968/FUL: proposed foodstore (8,360m²), petrol filling station with associated car parking, servicing and road alterations, at the former Linlathen High School site, Forfar Road, Dundee. This application was called in for determination by Scottish Ministers on 6 May 2004;
- Outline planning application 03/00966/OUT: proposed district centre comprising food retail unit (80,000ft²), 4 non-food retail units (4 X 1,500ft²), petrol filling station, 200 residential units, public house/restaurant and doctors surgery, at Land to West of Camperdown Leisure Park, Dayton Drive, Dundee. The applicants appealed on the grounds of non-determination on 28 June 2004;

- Planning application 04/00321/FUL: proposed foodstore (8,301m²), petrol filling station, formation of roundabout and access and ancillary works at South Road Retail Area, South Road, Dundee. The applicants appealed on the grounds of non-determination on 12 August 2004; and
 - Outline planning application 03/00708/OUT: regeneration of Dunsinane Industrial Estate to provide a mixed development including business, industrial, commercial, community and retail uses plus relocation of existing nursery and motor services operation plus a hotel. The applicants appealed on the grounds of non-determination on 26 October 2004.
- 6.5 The above planning application for the former Linlathen High School site was withdrawn by Wm Morrison on 17 January 2005 in order to resolve the outstanding access issues. The applicants have indicated that they intend to re-submit their application in due course.
- 6.6 A number of objections closely related to these proposals were submitted to the Finalised Dundee Local Plan Review. The PLI Report makes recommendations in respect of each of these objections.
- 6.7 All parties to the forthcoming Inquiries, including Scottish Executive Inquiry Reporters Unit, have indicated that it would be of significant benefit if the PLI Report and the Council's response were publicly available and could be considered at the Public Local Inquiries. However, to allow parties sufficient time to prepare for the Inquiries, this information would require to be released in January 2005. The PLI Report is a lengthy document that covers a significant number of issues and insufficient time has been available since it was received on 20 December 2004 to fully consider its content within this timescale.
- 6.8 However, in order to assist all parties it has been determined that those elements of the PLI Report that are directly relevant to the major foodstore issues to be considered at the forthcoming Public Local Inquiries are made publicly available. Appendix 1 to this report contains the relevant recommendations from the PLI Report together with an initial position statement on behalf of the Council in response to each recommendation. The full extracts from the PLI Report on the relevant objections have been placed in the Members' Lounge and will be made available as background papers.
- 6.9 Appendix 1 represents the Council's initial response to the recommendations contained in the PLI Report. The Council's full response to the PLI Report on these matters and all others, including proposed modifications to the Local Plan where appropriate, will be presented to the Planning and Transportation Committee at the earliest opportunity.

7 CONCLUSIONS

- 7.1 The release of selected extracts from the PLI Report together with an initial response by Dundee City Council will be of considerable assistance to all parties involved in the forthcoming Public Local Inquiries into planning applications for major foodstores and related developments.
- 7.2 A full report seeking approval of the Council's response to the PLI Report, including modifications to the Finalised Dundee Local Plan Review as appropriate, will be

submitted to the Planning and Transportation Committee at the earliest opportunity. In the meantime, with the exception of those matters covered in Appendix 1 of this report, the PLI Report will not be made publicly available.

8 CONSULTATIONS

- 8.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

9 BACKGROUND PAPERS

- 9.1 Report of Public Local Inquiry into Objections to the Finalised Dundee Local Plan Review.

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24 January 2005

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APPENDIX 1

CITY COUNCIL'S INITIAL RESPONSE TO REPORTER'S RECOMMENDATIONS IN RESPECT OF SITES INVOLVED IN FORTHCOMING FOODSTORE INQUIRIES

SUBJECT OF OBJECTION

New out of centre foodstores (Policy 49) General Issues

See proposals map and page 80 of Finalised Local Plan Review and pages 68-76 of PLI report.

OBJECTOR(S)

- B&Q Plc (S146 and S152)
- Tesco Stores Ltd (S154)

SUMMARY OF OBJECTION(S)

The Finalised Dundee Local Plan Review food retail floorspace requirements are not based on a recent retail assessment. As a result, the Finalised Local Plan Review relies only on an outdated assessment of foodstore provision, the Council has not shown a requirement for any additional food retail floorspace, nor has it justified the limitation to only two foodstores. A new food shopping review is needed, which should address all of the current needs and opportunities in the food retail sector.

REPORTER'S RECOMMENDATION

The Finalised Local Plan Review should be changed as follows:

- The 1986 and 1998 reports should be updated. That process should include assessing, quantifying and justifying the number and size of food retail units that might be required, and it should take account of modern retailing requirements.*
- The issue of rationalisation and replacement of existing stores, including the implications of diminishing the significance of that in terms of compliance with the approved Structure Plan, should be considered, explained and justified.*
- Policy 49 should be worded more explicitly to take account of the PAN 49 requirements.*

DCC'S INITIAL RESPONSE

- The City Council intends to provide an update of the 1986 and 1998 reports to address the matters highlighted in the Reporter's recommendations. However, it is considered that this should be carried out as part of a broader study aimed at providing a more comprehensive review of retailing and related policies. Among other things, the Study will allow the City Council to decide whether it wishes to provide support for the extension of the existing South Road foodstore. While the results of the study will not be reflected in the Finalised Local Plan Review, they will in due course inform the Dundee City Region Plan and, thereafter, the Local Development Plan for Dundee.

- b The Policy 49 provisions relating to the rationalisation and replacement of existing stores need further consideration, explanation and justification. This will be addressed by promoting a Modification to the Finalised Local Plan Review which will clarify and expand upon the Plan's approach to rationalisation and replacement.
- c Policy 49 will be worded more explicitly to take account of the PAN 49 requirements. This will be addressed by promoting a Modification to the Finalised Local Plan Review which would strengthen and clarify the reasoned justification for the policy.

SUBJECT OF OBJECTION**New out of centre foodstores (Policy 49)
Proposed Site - South Road**

See proposals map, page 80 of Finalised Local Plan Review and pages 83-95 of PLI report.

OBJECTOR(S)

- B&Q Plc (S146, S152 and S155)
- Dr C Alexander (S147)
- Ms A J Alexander (S148)
- Mr G Sivewright (S149)
- Mr T L Deans (S150)
- James Keiller Estates Ltd (S156)
- Macdonald Estates (S157)
- Basell UK Ltd (S158)
- Glennifer Estates Ltd (S159)

SUMMARY OF OBJECTION(S)

The proposed South Road food superstore site should be deleted from the Finalised Dundee Local Plan Review.

REPORTER'S RECOMMENDATION

The South Road Policy 49 retail allocation should be deleted from the Finalised Local Plan Review.

DCC'S INITIAL RESPONSE

Dundee City Council believes the site possesses strengths as a location for major foodstore development, a fact which is borne out by the current Asda planning application relating to the site. In the light of the wider issues highlighted by the Reporter's conclusions, however, it is considered that its continued allocation for this use would not be appropriate. Accordingly, the Reporter's recommendation is accepted and a modification will be proposed deleting the Policy 49 allocation from the site. As a result, the site would be covered by the Policy 66 (Open Space Network) designation.

SUBJECT OF OBJECTION

New out of centre foodstores (Policy 49) Alternative Site - Former B&Q, South Road

See proposals map, page 80 of Finalised Local Plan Review and pages 96-103 of PLI report.

OBJECTOR(S)

- B&Q plc (S146)
- Dr C Alexander (S147)
- Ms A J Alexander (S148)
- Mr G Sivewright (S149)

SUMMARY OF OBJECTION(S)

The Finalised Dundee Local Plan Review should be amended to incorporate the approved former B&Q retail warehouse site instead of the allocated South Road site.

REPORTER'S RECOMMENDATION

The Finalised Local Plan Review should be changed to allocate at least the site covered by the B&Q permission (CP74) for an out-of-centre foodstore development.*

DCC'S INITIAL RESPONSE

Tesco have now implemented their permission won on appeal for the former B&Q site at South Road and a foodstore is currently trading there. It should be noted that none of the city's existing operational food superstores is specifically allocated for foodstore use. It would therefore be inconsistent to apply such a designation to the South Road site. There is also the risk that this could give the mistaken impression that the site has a status which is different from those of the other food superstores trading in the city.

An important element of the Reporter's recommendation is that the Local Plan Review should be changed to "allocate at least the site covered by the B&Q permission.....". This is significant in that it leaves open the possibility of providing support for the extension of the site to allow the development of a larger store at this location. As part of the evidence presented on behalf of the City Council at the Public Local Inquiry, it was argued that the former B&Q (now Tesco) site was too small to satisfy the Local Plan objective of securing a major foodstore in this location.

However, the Reporter has also highlighted the lack of justification to support the case for the size of store sought by the Council in this part of the city. Accordingly, in the absence of such justification, it would not be appropriate, at this stage, to provide for the extension for the site to allow the development of a larger store. The City Council will reconsider this issue in the context of the wider study of current and future shopping provision across the

* This is a reference to a document lodged as a production in connection with the Local Plan Inquiry.

city as a whole. (See response to objections S146, S152 and S154 - New Out of Centre Foodstores [Policy 49]/General Issues).

SUBJECT OF OBJECTION**New out of centre foodstores (Policy 49)
Alternative Site - Camperdown Leisure Park**

See proposals map, page 80 of Finalised Local Plan Review and pages 123-133 of PLI report.

OBJECTOR(S)

- Basell UK Ltd (S158)

SUMMARY OF OBJECTION(S)

Camperdown Leisure Park should be allocated for a new foodstore as an alternative to the Linlathen High School site and/or the South Road site. Camperdown Leisure Park could also be designated a new district centre and thereby the potential to accommodate the identified need for a food superstore along with other development, towards a mix of leisure and retail uses. In that way it would build upon the park's existing attraction as a destination in its own right, and create a single sustainable mixed use development.

REPORTER'S RECOMMENDATION

The Finalised Local Plan Review should not be changed.

DCC'S INITIAL RESPONSE

The Reporter's recommendation in respect of this objection is welcomed. No changes to the Finalised Local Plan Review are proposed as a result.

SUBJECT OF OBJECTION**New out of centre foodstores (Policy 49)
Proposed Site - Former Linlathen High School, Forfar Road**

See proposals map, page 80 of Finalised Local Plan Review and pages 77-82 of PLI report.

OBJECTOR(S)

- James Keiller Estates Ltd (S156)
- MacDonald Estates Ltd (S157)
- Basell UK Ltd (S158)

SUMMARY OF OBJECTION(S)

The Council owned former Linlathen High School site should not be allocated for out-of-centre foodstore development without evidence to suggest that the sequential approach to site selection has been adopted in its identification and selection. Without that evidence, the allocation breaches National Planning Policy Guideline 8: Town Centres and Retailing (NPPG8).

The Council's financial interest in the site raises questions relative to the impartiality of its judgement on the suitability of the site, especially when compared to others.

A substantial part of the site is in Caird Park, so development would contravene NPPG11: Sport, Physical Recreation and Open Space, which presumes in favour of keeping open space and playing fields.

There is substantial uncertainty regarding the prompt delivery of a foodstore at Linlathen. The site has so far suffered a lack of market interest due to its poor location and configuration. In addition, the site has infrastructure difficulties and traffic implications for the A90 trunk road. Given these constraints, more sites should be brought forward.

REPORTER'S RECOMMENDATION

The Finalised Local Plan Review should not be changed.

DCC'S INITIAL RESPONSE

The Reporter's recommendation in respect of these objections is welcomed. The foodstore allocation for this site will be maintained.

SUBJECT OF OBJECTION

Dunsinane Revitalisation (Policy 25)

See page 52 of Finalised Local Plan Review and pages 104-116 of PLI report.

OBJECTOR(S)

- James Keiller Estates Ltd (S156 & W107)
- Mr S Cunningham (W108)
- Albacom Ltd (W109)
- Ronatree Ltd (PIC5)

SUMMARY OF OBJECTION(S)

Dunsinane Industrial Estate requires urgent attention to redress the decline in one of Dundee's most prominent industrial estates. Finalised Dundee Local Plan Review Policy 25 and the allocation of land for higher value uses is welcomed if this will ensure re-investment in the remainder of the area for employment uses. But this proposal is insufficient to regenerate the area and more land should be designated for even higher value uses. The estate needs a high profile primary use like food retailing and a more relaxed approach to other complementary uses like non-food retailing, retail warehousing and hotels. Only then would a high enough return be generated to cross-fund the necessary regeneration package, which should be based on Keiller's submitted planning application masterplan (JKE2).

The former Valentine's factory site should be allocated for a new food superstore instead of the former Linlathen School site and open space at South Road because Dunsinane is conveniently located between two grade separated junctions. It is also ideally located for those living in Charleston, Ardler, St Mary's, Menzieshill, Gowrie Park, Birkhill and Muirhead.

The Policy 25 revitalisation area boundary should be changed so as not to split an existing property.

The Council's response to these objections, which is to propose simply that Policy 25 is deleted (CP2), is illogical, unhelpful and inappropriate.

REPORTER'S RECOMMENDATION

The Finalised Local Plan Review should be changed as follows:

- a *Policy 25 should be kept and not deleted as proposed in CP2*, but the reference to wholesaling should take account of the recommendations on objections W111 to W113, W115 and W116**.*

* This is a reference to a document lodged as a production in connection with the Local Plan Inquiry.

** These are references to objections not directly related to the foodstore element of the Dunsinane objections. They will be fully dealt with in the separate report referred to in para 6.8 of this report.

- b *The Policy 25 boundaries should be revisited to ensure reasonable conformity with affected property boundaries.*
- c *If the funding bid referred to in W107/7** does not already cover the Kings Cross Road and Dunsinane Avenue intersection, junction safety and performance should be assessed, with a view to eventual inclusion and improvement.*

DCC'S INITIAL RESPONSE

Dundee City Council proposed a Pre-inquiry change to the Finalised Local Plan Review to delete Policy 25. This was in response to proposals put forward by James Keiller Estates Limited which were not consistent with the Council's objective of regenerating Dunsinane as a significant location for economic development within Classes 4, 5 and 6 of the Use Classes Order. The Council's position was that regeneration of the industrial estate should be pursued using alternative means, including the utilisation of monies available to the Council under the Vacant and Derelict Land Fund.

The Reporter considers that Policy 25 is an appropriate land use policy response that will assist in the regeneration of Dunsinane Industrial Estate and recommends that it is not deleted. The Reporter endorses the Council's position that Dunsinane is not an appropriate location for retail development and that any higher value uses should conform to the wider development plan policy background of keeping Dunsinane primarily for employment type uses. The Reporter's position reflects the approach originally proposed in the Finalised Dundee Local Plan Review and the recommendation is therefore accepted.

Appropriate modifications to the Local Plan Written Statement and Proposals Map will be proposed, including consideration of the boundaries of Policy 25 which will adhere to property boundaries and the suggested junction improvement. Furthermore, in accordance with the Reporter's recommendations, Policy 25 will clarify that wholesaling should be differentiated from Class 1 retailing and definitions and control mechanisms will be put in place to avoid any misinterpretation or inadvertent conflict with retail policy elsewhere in the Local Plan.

** These are references to objections not directly related to the foodstore element of the Dunsinane objections. They will be fully dealt with in the separate report referred to in para 6.8 of this report.

SUBJECT OF OBJECTION**Freestanding Retail Warehouses (Policy 51)
South Road**

See page 82 of Finalised Local Plan Review and pages 134-144 of PLI report.

OBJECTOR(S)

- B&Q plc (S146, S160 and S164)
- Teesloch (S161)
- Fullwork (S162)

SUMMARY OF OBJECTION(S)

Policy 51 should be deleted as inappropriate and unworkable. The existing retail warehouses at South Road and Old Glamis Road should be recognised and supported as retail areas, including by designation on the proposals map.

REPORTER'S RECOMMENDATION

The Finalised Local Plan Review should be changed as follows:

- Policy 51 should be deleted.*
- At least the site covered by the B&Q permission (CP74)* should be allocated for an out-of-centre foodstore development.*

DCC'S INITIAL RESPONSE

- Policy 51 indicates the Council's desire to secure the relocation of older, poorly located retail warehouses to locations more in keeping with current policy guidance for this type of retailing. These include the retail warehouses at South Road. However, subsequent to the Local Plan Inquiry one of these units has been reoccupied by Tesco (the former B&Q unit) and this currently trades as a foodstore with the benefit of a planning consent granted on appeal.

It is disappointing that Policy 51 has not secured the support of the Reporter. However, while expressing significant doubts regarding the means of implementation and possible effects of Policy 51, the Reporter has not rejected outright the concept of relocating the freestanding retail warehouses. The Reporter also notes that it would be possible to pursue relocations through negotiation and encouragement and that, as a result, Policy 51 offers no additional benefits.

It should also be noted that the Reporter has not recommended the restoration of the retail designation for South Road (as sought by B&Q as part of their objection). This provides flexibility and removes a potential barrier to alternatives to retail use at South Road in the event that the Council should wish to continue to encourage these.

* This is a reference to a document lodged as a production in connection with the Local Plan Inquiry.

Having regard to the above, the Reporter's recommendation is accepted and a modification will be proposed that deletes Policy 51 and its related supporting text from the Finalised Local Plan. Opportunities to secure the relocation of freestanding warehouses shall still be pursued, albeit without specific Local Plan policy support. However, further consideration requires to be given to the issues highlighted by the Reporter, including the need for greater clarity regarding implementation measures and identifying acceptable alternative uses for vacated sites.

- b See response already given on page 8 to objections S146, S147, S148 and S149 (New Out of Centre Foodstores [Policy 49]/Alternative site - Former B&Q, South Road).