

City Chambers  
DUNDEE  
DD1 3BY

25th October, 2024

Dear Colleague

You are requested to attend a MEETING of the **PLANNING COMMITTEE** to be held remotely on Monday, 4th November, 2024 at 5.00 pm.

Members of the Press or Public wishing to join the meeting should contact Committee Services on telephone (01382) 434205 by Friday, 1st November, 2024.

Should you require any further information please contact Committee Services on telephone (01382) 434228 or by email at [committee.services@dundeecity.gov.uk](mailto:committee.services@dundeecity.gov.uk)

Yours faithfully

GREGORY COLGAN

Chief Executive

## **AGENDA OF BUSINESS**

### **1 DECLARATION OF INTEREST**

Members are reminded that, in terms of The Councillors Code, it is their responsibility to make decisions about whether to declare an interest in any item on this agenda and whether to take part in any discussions or voting.

This will include all interests, whether or not entered on your Register of Interests, which would reasonably be regarded as so significant that they are likely to prejudice your discussion or decision-making.

### **2 DEPUTATIONS**

(a) 24/00487/FULL – ERECTION OF SPORTS TRAINING AND OFFICE BUILDING, PLANT/STORAGE BUILDING, FENCING AND SPECTATOR STAND AND INSTALLATION OF 3G PITCH, FLOODLIGHTS, RELOCATION OF STORM GATE AND ASSOCIATED ACCESS, PARKING AND DRAINAGE – RIVERSIDE PARK, RIVERSIDE DRIVE, DUNDEE – FOR DUNDEE COMMUNITY TRUST

Requests have been made for a deputation to address the Committee relative to objections to the above-mentioned application which is recommended for approval.

(b) 24/00375/FULL - ERECTION OF MODULAR BUILDING (RETROSPECTIVE) - NORTH END FOOTBALL CLUB, FAIRMUIR STREET, DUNDEE – FOR MR BRUCE HARPER, NORTH END FOOTBALL CLUB

Requests have been made for a deputation to address the Committee relative to objections to and in support of the above-mentioned application which is recommended for approval.

### **3 PLANNING APPLICATIONS**

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# Planning Applications

Reports by Head of Planning & Economic Development to the Planning Committee

<b>Item No</b>	<b>Case No/Ward</b>	<b>Location</b>	<b>Page</b>
1	24/00487/FULL W03-West End	Riverside Park, Riverside Drive, Dundee	1
2	24/00375/FULL W04-Coldside	North End Football Club, Fairmuir Street, Dundee, DD3 8HU	47
3	24/00511/MDPO W08-The Ferry	Johnston Road, West Pitkerro Industrial Estate, Dundee, DD4 8XD	60

*Members may be aware that in making any determination under Planning Legislation, it shall be made in accordance with The Development Plan, unless material planning considerations indicate otherwise. NB: Background papers relating to these reports comprise letters of objection, correspondence with the applicants and/or their agents, comments from consultees and the Development Plan and other policy documents referred to.*

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# Erection of Sports Training and Office Building, Plant/Storage Building, Fencing, Spectator Stand, Installation of 3G Pitch, Floodlights, Relocation of Storm Gate, Parking and Drainage

## KEY INFORMATION

**Ward:** West End

**Address:**

Riverside Park  
Riverside Drive

**Applicant:**

Dundee Community Trust

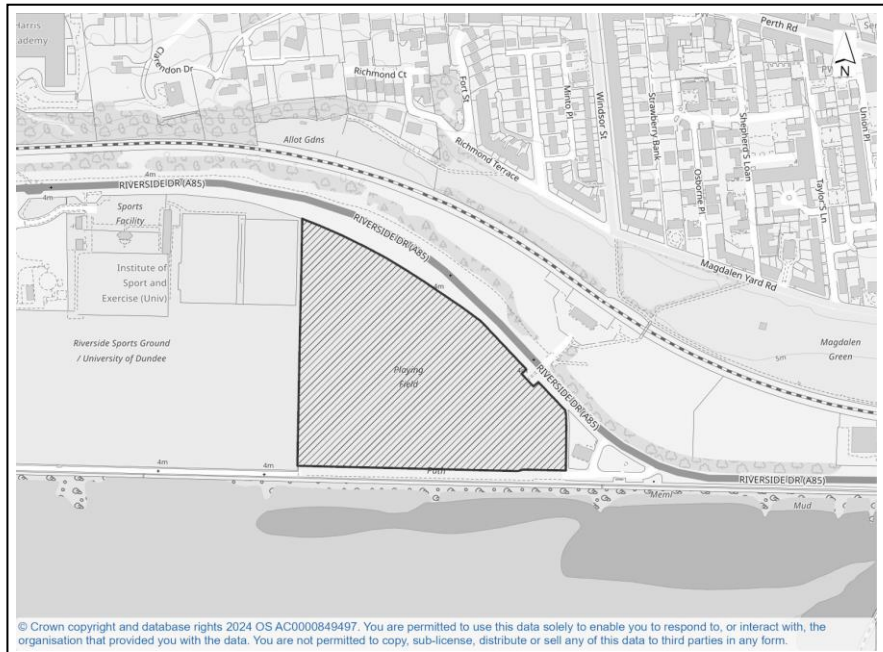
**Agent:**

LJRH Architects

**Validated:** 30 July 2024

**Report by Head of Planning & Economic Development**

**Contact:** Laura Stewart



## SUMMARY OF REPORT

- Planning permission is sought for the erection of a sports training facility building which is set over two floors with office space on the upper floor. Alongside the building it is proposed to erect a plant storage building, 5m high fencing around the perimeter of the existing Riverside pitches, install a 3G pitch with floodlighting, site a spectator stand, relocate an existing flood gate, form a new access and parking area and install drainage.
- The application is not fully in accordance with the Development Plan.
- The statutory neighbour notification process was undertaken, and the application advertised in the local press. 61 letters of objection and 38 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 as six or more valid written objections have been received and the recommendation is for approval. An objection was also received from the West End Community Council.
- More details can be found at <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?keyVal=SH63JHGCM2F00&activeTab=summary>

## RECOMMENDATION

The proposal is not fully in accordance with the Development Plan. There are material considerations of sufficient weight to justify approval of planning permission. It is therefore recommended that planning permission be **APPROVED** subject to conditions.

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# 1 DESCRIPTION OF PROPOSAL

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- 1.1 It is proposed to erect a sports training facility at the existing Riverside training pitches on the River Tay side of Riverside Drive.
- 1.2 To the eastern extent of the site, a new building is proposed. This is set over two storeys and has a footprint of approximately 48m long x 12.5m wide. It is a largely rectangular footprint with the gable ends overlooking the north (Riverside Drive) and south (River Tay). The west elevation which measures 48m will overlook the existing pitches and proposed 3G and exhibition training pitches. There is a projecting entrance feature with a footprint of approximately 12m x 6m which is situated on the east elevation adjacent to the proposed car parking area.
- 1.3 The ground floor footprint includes a reception/waiting area, first team changing facilities, medical room, nutrition area, fitness suite, sauna/steam room, laundry facility, doctor surgery and shower area. The other half of the ground floor includes additional changing facilities, a community space and a kitchenette.
- 1.4 To the upper floor there are twelve offices (mix of open plan and individual), a board/media room, two meeting spaces, and a players' lounge and kitchen area with access to external balconies, two of which are situated on the west elevation, which wrap around the north and south elevations.
- 1.5 Externally, the proposed building has a flat roof with a height of 10m at its extent, which is the projecting gable feature on the east elevation. The remainder of the building will be approximately 7m in height. Materials include a single ply roofing membrane, standing seam cladding finished in anthracite grey to the upper floor and to the ground floor rough cut Angus sandstone cladding. The materials and design will be replicated in the smaller plant building which measures 6m in height with a footprint of approximately 12m x 9m located to the south elevation of the main building.
- 1.6 To the east of the building, adjacent to the Bridgeview Station restaurant, a car park with 76 spaces including 4 accessible bays is proposed. There is also a pick-up and drop-off point and 22 cycle parking spaces. Access would be taken via the existing junction adjacent to Bridgeview restaurant which leads to the existing parking area along the sea wall where a new access point to the car park would be formed.
- 1.7 An exhibition pitch is denoted on the existing area of pitches. This does not require planning permission. However, it will be overlooked by a 'moveable' spectator stand that seats 100 people. As it is likely that this will be in situ for more than 28 days (inclusive) within any given year, planning permission is required for this element even though it can be packed away. To the northwestern corner of the site, a 3G pitch is proposed. Flood lighting is proposed for this pitch.
- 1.8 A 5m high fence is proposed to enclose the entire site around the boundary with the University training pitches to the west, along the boundary with Riverside Drive, to the eastern boundary adjacent to Bridgeview Station and along the southern boundary adjacent to the car parking area overlooking the Tay.
- 1.9 As the proposed access into the car park will affect the car park flood gate, this will be relocated 19m to the west.
- 1.10 Finally, drainage will be accommodated on site via a soakaway.

- 1.11 Overall, the existing pitches cover an area that measures approximately 6 hectares. However, as the proposed and current use of the area is for training pitches, only the physical development on the site requires planning permission. The 3G pitch, along with the training facility and associated car parking drainage and the fence proposed around the site falls under 2 hectares. The proposal therefore falls within the threshold of a local development.
- 1.12 The applicant has submitted the following in support of the application:
- Planning Statement;
  - Design and Access Statement;
  - Transport Assessment/Statement;
  - Flood Risk Assessment;
  - Drainage Strategy;
  - Tree Survey;
  - Noise Impact Assessment; and
  - Visual Impact Assessment.

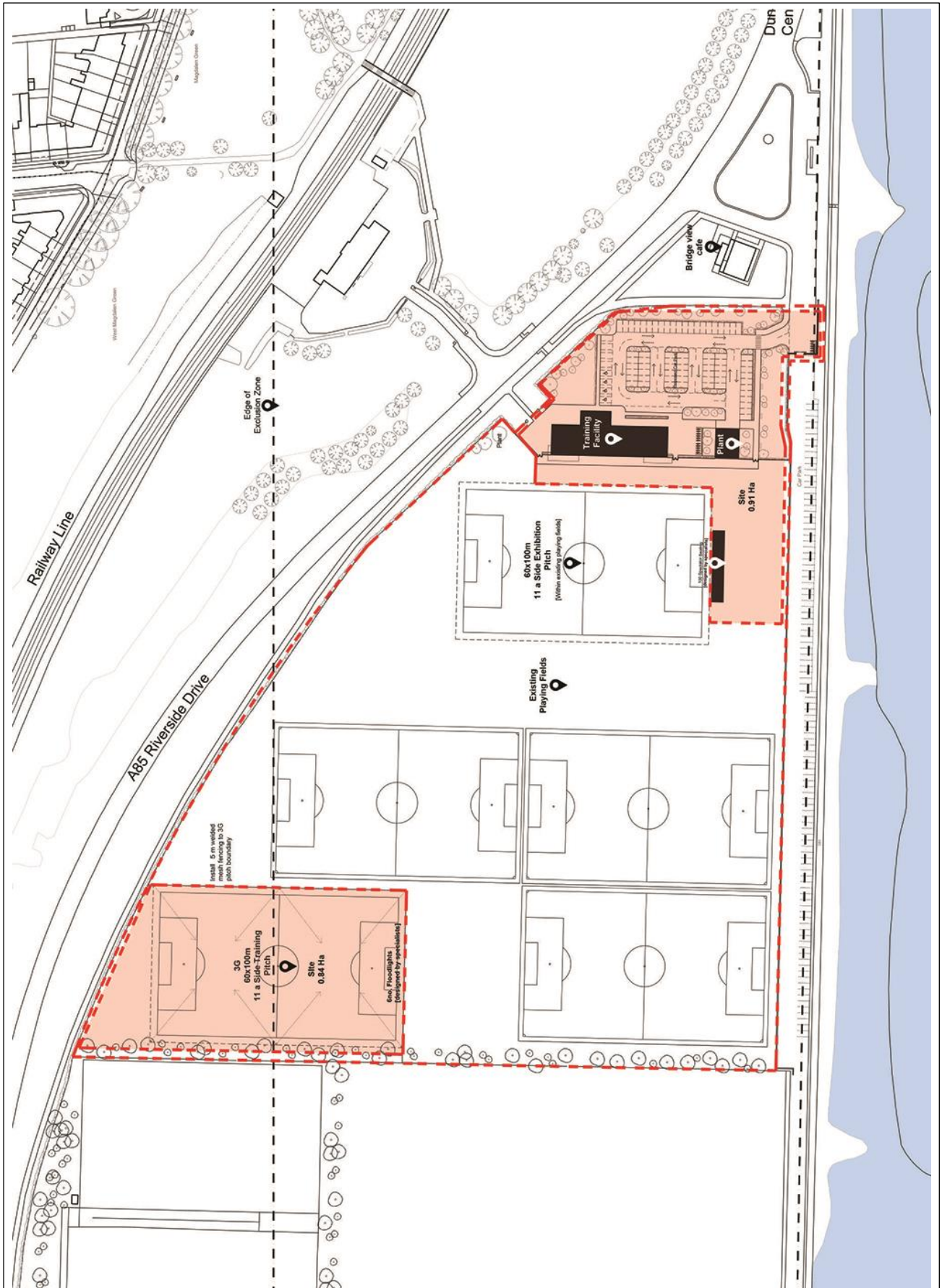


Figure 1 – Proposed Site Layout Plan



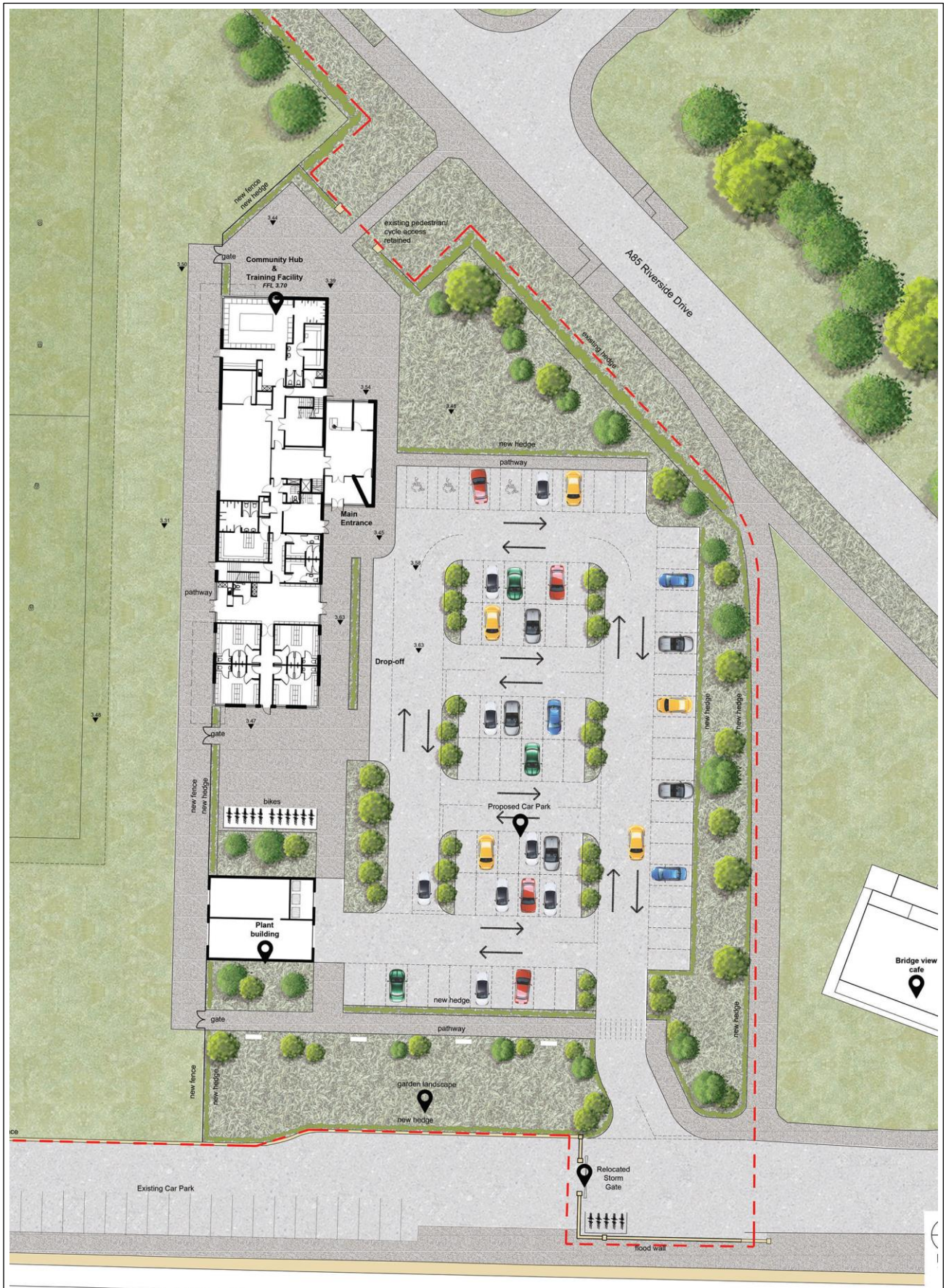


Figure 2 – Proposed Building and Car Park Plan



Figure 3 – Proposed Building Elevations



Figure 4 – Proposed Building Floor Plans

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## 2 SITE DESCRIPTION

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- 2.1 The site is located on the existing Riverside pitches to the south side of Riverside Drive. The site currently comprises open amenity space and six full size natural grass pitches with goal posts. The Council manages the maintenance and booking of these pitches. There are no on site changing facilities.
- 2.2 The site is bound to the north by Riverside Drive with the pavilion, car sales and Magdalen Green beyond on the opposite side of the road. A hedge partially screens the site from this side. To the south the site is bound by a 1m blockwork wall and row of car parking which is situated along the River Tay flood defence wall. To the east is the Bridgeview Station restaurant. The west boundary comprises mature planting, with the University training pitches adjacent.
- 2.3 The site has a largely open outlook with views across the Tay, over to Fife and Invergowrie Bay.



Figure 5 – East Looking North West



Figure 6 – South Looking North



**Figure 7 – Southern Boundary Looking East**



**Figure 8 – Riverside Drive Looking Across To Pitches**

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## 3 POLICY BACKGROUND

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

### **NATIONAL PLANNING FRAMEWORK 4**

Policy 1: Tackling The Climate and Nature Crises

Policy 2: Climate Mitigation and Adaptation

Policy 3: Biodiversity

Policy 4: Natural Places

Policy 6: Forestry, Woodland and Trees

Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings

Policy 12: Zero Waste

Policy 13: Sustainable Transport

Policy 14: Design, Quality and Place

Policy 21: Play, Recreation and Sport

Policy 22: Flood Risk and Water Management

Policy 23: Health And Safety

Policy 27: City, Town and Commercial Centres

### **DUNDEE LOCAL DEVELOPMENT PLAN 2019**

Policy 1: High Quality Design and Placemaking

Policy 2: Public Art Contribution

Policy 21: Town Centre First Principle

Policy 28: Protecting and Enhancing the Dundee Green Network

Policy 29: Outdoor Access and the Dundee Green Network

Policy 32: National and International Nature Conservation Designations

Policy 34: Protected Species

Policy 35: Trees and Urban Woodland

Policy 36: Flood Risk Management

Policy 37: Sustainable Drainage Systems

Policy 39: Environmental Protection

Policy 40: Air Quality

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 55: Dundee Airport

Policy 56: Parking

3.2 Low and Zero Carbon Technology in New Development Supplementary Guidance.

3.3 Surface Water Drainage Design and Flood Risk Assessment Requirements (Technical Guidance).

3.4 Dundee Physical Activity Strategy.

3.5 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

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## 4 SITE HISTORY

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4.1 The Council adopted an EIA Screening Opinion 24/00005/EIASCR on 13 August 2024 – EIA is not required.

4.2 There is no other relevant planning history on site.

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## 5 PUBLIC PARTICIPATION

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5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.

5.2 61 objections have been received raising the following valid material grounds:

- car parking excessive;
- additional traffic and congestion;
- off-site traffic and parking impact to nearby residents;
- not accessible by public transport, 600m away from Perth Road, not a local bus route to the site, 76 parking spaces, increase travel by car, contrary to LDP Policy 54.
- additional traffic emissions contrary to LDP Policy 39;
- impact to active travel links, Rights of Access, Green Circular and Ambassador Route used by all;
- access rights to the site cannot be upheld as required by Section 13(1) of the Land Reform Scotland Act;
- changes suggested to materials, generic building design, contrary to Policy 1;
- visual impacts from substantial fencing, scale of development out of keeping with the area, football branding inappropriate at entrance to city;
- floodlighting should be acceptable to relevant authorities;
- light pollution from flood lights, sky glow;
- loss of community asset which should remain available to all including local clubs, dog walkers, use as an events space, picnicking, rounders/cricket, tourists, children, residents, visiting one off events, runners, walkers;
- loss of green space and public accessibility to this;
- impacts to wildlife, fragmentation of wildlife corridors, impact to trees, adjacent RAMSAR, SAC, SPA. Appropriate Assessment is required. Contrary to LDP policies 28, 29, 34;
- no EIA has been carried out;
- impact to amenity of local residents from noise, 100-seater stand;
- Conservation Area not protected – include views across the vista and iconic views to residents and tourists, key entrance to city impacted (Tay Bridge, Magdalen Bandstand listed);



- loss of public amenity space to relocate main office – commercial enterprise, private interest training facility and office, not community hub, not to benefit wider public;
- contrary to Council's Open Space Strategy as no longer open to wider public to enjoy, impacts on health and well-being which arise from loss of facility;
- should be no development on a flood plain, SEPA flood maps denote as medium – high risk. Historic flooding to the area a concern;
- concern around effects on existing flood defences to accommodate the development, it is not a water compatible use contrary to LDP Policy 36 and NPF Policy 22;
- using this site instead of Camperdown proposal still public space;
- runway safety zone, LDP Policy 55 presumes against development in runway zone; and
- absence of any information regarding contaminated land.

5.3 Concerns were also raised in relation to:

- loss of view;
- development should be elsewhere – Kingsway, Riverside pavilion, Caird Park, Technology Park, Michelin, west of NCR, brownfield land. Office space at central waterfront already;
- will cause conflicts between existing teams and sets of supporters;
- not everyone is a fan of football; and
- value of property.

5.4 However, these are not valid material planning considerations.

5.5 38 letters of support have been received raising the following valid material planning considerations:

- much needed sporting facility for Dundee and all in the city;
- enhance grassroots and women's football in the city;
- city needs a high end top class facility;
- much needed investment in the city, boost economy;
- site will benefit from redevelopment;
- high quality design, reduces visual impact on area;
- creates job opportunities;
- less development at Camperdown leaves more green space in that area;
- easy location to reach;

- will address public health needs; and
  - community hub for people to meet for education, social engagement, training, skills development.
- 5.6 The valid grounds of representation are taken into account in the material considerations section of this report.

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## 6 CONSULTATIONS

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- 6.1 **West End Community Council** – objects to the application. No free or low-cost community use will be offered. Landscape and visual impact concerns. The two storey building is out of character with the area, reducing the visual amenity of the waterfront area. Loss of serviceable grass to plastic pitches. Associated impacts to the Ambassador Route.

An Environmental Impact Assessment has not been carried out.

Traffic has not been fully assessed and there is great concern over increased traffic.

- 6.2 **City Engineer** – has no objection. The revised Flood Risk Assessment (FRA) (revision 3) was noted to be adequate. However, the FRA ‘compliance’ and ‘independent check’ certificates have not been submitted. This can be covered under a condition which secures the finalised drainage design.

Modifications are suggested within the FRA to allow safe access and egress from the car park to Riverside Drive. No details have been provided on whether this is temporary, formal, informal or as to the design and operation of such an access. A condition is recommended to secure more detail on this.

A strategy/document is required confirming how flood risk monitoring will be undertaken (e.g. signing up to SEPA Floodline) and clarifying what the criteria will be for the building being closed due to coastal flood risk. This can be requested through a condition. This would enable it to be reviewed with a view to the DCC gate closure criteria and the training facility closure criteria aligning, and reducing the risk of any potential conflict in the future when DCC close the flood gates.

- 6.3 **Head of Communities, Safety and Protection (Contaminated Land)** – has no objection subject to a remediation scheme to deal with contamination at the site being carried out. It will also be necessary to demonstrate that the agreed strategy has been achieved and implemented prior to the first use of the development.
- 6.4 **Head of Communities, Safety and Protection (Environmental Health)** – has no objection. The NIA as submitted assumes the spectator stand is located to the south of the exhibition pitch and faces north and that there are no tannoys or public address systems. Conditions are recommended to secure this. A condition is also recommended to restrict noise limits from the plant and machinery at the site and the timing of floodlighting being operational.
- 6.5 **Head of Environment (Greenspace)** – has no objection. The arboricultural method statement and tree protection plan must be fully implemented to protect root protection areas of existing trees. With regard to biodiversity, the proposed landscaping mitigates any habitat loss and provides adequate enhancement for biodiversity in the area.
- 6.6 **Head of Sustainable Transportation and Roads** – has no objection subject to conditions.

Conditions recommended include: submission of a Travel Plan, site traffic event management plan, finalised details of cycle storage and parking, EV charging points, and details of the proposed shared path to the north of the site should be agreed upfront.

- 6.7 **Highlands and Islands Airports Limited (HIAL)** – has no objection subject to conditions which include submission of a Wildlife Hazard Management Plan which shall require to include details on how nesting birds will be dealt with when discovered/as requested by HIAL. A condition is recommended to secure a crane permit from HIAL to ensure that aircraft are not endangered by tall equipment. A condition is also recommended to control design of any construction related lighting to ensure safe operation of the aerodrome through confusion with ground lights/glare.
- 6.8 **NATS Safeguarding** – has no objection – reviewed the application in respect of national air traffic safety. The proposal has been examined from a technical safeguarding aspect and does not conflict with safeguarding criteria.
- 6.9 **Historic Environment Scotland** – has no objection and no comments to make on the application.
- 6.10 **NatureScot** – has no objection and no comments to make on this case.
- 6.11 **Scottish Water** - has no objection. The proposed development would be serviced by the Clatto Water Treatment Works and Hatton Waste Water Treatment Works.
- 6.12 **SEPA** – has no objection. Whilst the site is shown to be at risk on Coastal Future Flood Maps, what is proposed is deemed to be 'Water Compatible' under SEPA's Land Use Vulnerability Guidance ('Outdoor sports and recreation facilities such as changing rooms'). It was noted that the Planning Authority does not consider the application to fall under any of the exceptions under NPF4 Policy 22.

No land raising is proposed, and additionally, the Flood Risk Assessment states that the formal coastal flood protection scheme has a Standard Protection of 200-year+ climate change allowance.

- 6.13 **Sportscotland** – has no objection subject to a legal mechanism, such as a suspensive planning condition or section 75 planning obligation, to secure the delivery of the compensatory pitch facilities.

Sportscotland is a statutory consultee on planning applications which impact on outdoor sports facilities and is guided by the provisions of NPF4 Policy 21. The proposals would result in the loss of one of the five full size grass pitches. However, four full size grass pitches and one 3G pitch would remain available at the site.

As noted in the application documents, a synthetic pitch surface provides more playing capacity than a natural grass pitch surface. As such, the requirements of NPF4 Policy 21 criteria are met through the delivery of the synthetic pitch and that the overall playing capacity in the area will be maintained.

## 7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission 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.

### Principle of Development

- 7.2 **NPF4 Policy 21: Play, recreation and sport** with reference to part a) considers development proposals which result in the loss of outdoor sports facilities. Proposals will only be supported where the proposal meets one of the four criteria:
- i is ancillary to the principal use of the site as an outdoor sports facility; or
  - ii involves only a minor part of the facility and would not affect its use; or
  - iii meets a requirement to replace the facility which would be lost, either by a new facility or by upgrading an existing facility to provide a better-quality facility. The location will be convenient for users and the overall playing capacity of the area will be maintained; or;
  - iv demonstrate that there is a clear excess of provision to meet current and anticipated demand in the area, and that the site would be developed without detriment to the overall quality of provision.
- 7.3 The Policy notes that this assessment should be informed by the local authority's Open Space Strategy and/or Play Sufficiency Assessment and in consultation with SportsScotland where appropriate.
- 7.4 With regard to criterion i, the proposal would result in the loss of one of the existing grass pitches to accommodate the training facility and offices. The training facility and changing areas to the ground floor of the building would be ancillary to the established use of the site as sports pitches. The proposal would comply with criterion i.
- 7.5 With regard to criterion ii, the proposal includes fencing which closes off the pitches to informal use by the public. However, there are other areas of open space on the north side of Riverside Drive where full public access will be available. The improved facility will remain bookable for community user groups and can be secured by condition. The development would comply with criterion ii, subject to conditions.
- 7.6 With regard to criterion iii, the existing pitches are allocated as open space where there is a presumption against development. Prior to this planning application being submitted, there was no suggestion that the existing facility would be lost. However, the proposed facility will result in upgraded pitches with on-site changing facilities. SportsScotland was consulted and recognised that a 3G pitch will support more usage than the existing grass pitches and therefore accepts that the playing capacity will be maintained. SportsScotland raised no objections subject to a legal mechanism or planning condition to ensure that the pitches were still available to hire for community sports groups.
- 7.7 In terms of availability of pitches to community users it is noted that, at present, the pitches are utilised by local teams on one to two weekday evenings per week and throughout the weekend within daytime hours. The applicant advises that Dundee Football Club training will be between 09:00 hours – 16:00 hours on weekdays when the pitches are largely unused. Pitches would be available at the same frequency and cost as currently offered by the Council. A condition is recommended to ensure that the pitches are made available to community groups and users outside of the main Dundee FC training use to secure this. The proposal would comply with criterion iii subject to condition.

- 7.8 As above the proposal would result in improved playing surfaces and associated facilities, and the pitches would be available for use by community users. Therefore, there would be no detriment to the overall quality of provision which is currently available at the site. SportsScotland has also requested conditions requiring the pitches to be maintained to an appropriate standard. The proposal would comply with criterion iv subject to conditions.
- 7.9 **The proposal complies with NPF4 Policy 21a subject to condition.**
- 7.10 NPF4 Policy 21g is also relevant. This states that development proposals that include new or enhanced play or sport facilities will provide effective management and maintenance plans covering the funding arrangements for their long-term delivery and upkeep, and the party or parties responsible for these.
- 7.11 As the proposed facility would no longer be maintained by the Council, it will be necessary to ensure upkeep and maintenance by the applicant or any future operator of the site. A condition is therefore recommended to secure landscaping and maintenance plan in perpetuity which shall cover the pitches alongside all hard and soft landscaping within and forming the boundaries of the site.
- 7.12 **The proposal complies with NPF4 Policy 21g subject to condition.**
- 7.13 **NPF4 Policy 23: Health and safety** with reference to part a is of relevance to this proposal. This states that development proposals that will have positive effects on health will be supported. This could include, for example, proposals that incorporate opportunities for exercise, community food growing or allotments.
- 7.14 As an enhanced sports facility with community use the proposal will have a positive effect on health.
- 7.15 **The proposal complies with NPF4 Policy 23a.**
- 7.16 **LDP Policy 28: Protecting and Enhancing the Dundee Green Network** states that development proposals shall protect and enhance the Dundee Green Network by ensuring that development will not lead to 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. Where development proposals would result in a change of use of a site to anything other than a green infrastructure use then it would require to be demonstrated by the developer that the site no longer has a potential value as green infrastructure unless the Council are satisfied that:
- 1 the proposals are consistent with a masterplan, strategy or programme approved by the Council; or
  - 2 compensatory green infrastructure of equal benefit and accessibility will be provided in or adjacent to the community most directly affected; or
  - 3 proposals affect only a lesser part of the site and are ancillary to it or result in improved recreational or amenity value on the remainder of the site.
- 7.17 With the exception of the proposed training facilities which are ancillary to the main sports pitch use, along with the office use above contained within the building, the proposal would not result in a change of use of the site to anything other than a green infrastructure use. It

would result in improved sports facilities at the site. Informal opportunities for play can be met on the playing areas adjacent to the pavilion on the opposite side of Riverside Drive.

7.18 **LDP Policy 28** - also states that proposals which affect outdoor sports facilities will be safeguarded from development except where:

- 1 the proposals affect only a minor part of the site or are ancillary to the principal use of the site as an outdoor sports facility and either improve or do not affect its use and potential for sport, training and amenity use; or
- 2 the facility which would be lost is to be replaced by a new or upgraded compensatory facility of equal benefit and accessibility in; or
- 3 adjacent to the community most directly affected; or
- 4 the proposals are consistent with the Dundee Physical Activity Strategy or Dundee Pitch Strategy and supported through consultation with Sportscotland.

7.19 As noted under NPF4 Policy 21, the proposal would involve the loss of one grass pitch. However, the 3G pitch would support additional play through being an improved surface. The building would accommodate changing facilities for grassroots teams alongside Dundee FC first team. This is an ancillary use to the existing use of the area as playing fields.

7.20 **The proposal complies with LDP Policy 28.**

7.21 **LDP Policy 29: Outdoor Access and the Dundee Green Network** - states that 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.

7.22 The proposed development will not impact on any outdoor access route. A condition is recommended to ensure that the adjacent active travel routes are safeguarded during construction.

7.23 **The proposal complies with LDP Policy 29 subject to condition.**

#### **Town Centres First**

7.24 **NPF4 Policy 27: Town Centres First** - is of relevance to the proposal as there is office accommodation associated with the proposed training facilities. As denoted on the floor plans of the building the upper floor will be solely accommodated by offices, meeting spaces, lounge and board/media room. This shall introduce a permanent workforce to the site which is not currently the case. Policy 27b states that development proposals will be consistent with the

town centre first approach. Proposals for uses which will generate significant footfall, including commercial, leisure, offices, community, sport and cultural facilities, public buildings such as libraries, education and healthcare facilities, and public spaces:

- i will be supported in existing city, town and local centres, and
- ii will not be supported out with those centres unless a town centre first assessment demonstrates that:
  - all centre and edge of centre options have been sequentially assessed and discounted as unsuitable or unavailable;
  - the scale of development cannot reasonably be altered or reduced in scale to allow it to be accommodated in a centre; and
  - the impacts on existing centres have been thoroughly assessed and there will be no significant adverse effect on the vitality and viability of the centres.

7.25 **LDP Policy 21: Town Centre First Principle** - similarly seeks to direct development to the City Centre and ensure that development does not have an adverse effect on the vitality and viability of the City Centre or district centres.

7.26 The proposal is not within the City Centre and no sequential assessment has been submitted to discount existing sites or opportunities.

7.27 **The proposal fails to comply with NPF4 Policy 27 and LDP Policy 21.**

#### **Design and Layout**

7.28 **NPF4 Policy 14a: Design, quality and place** states that development proposals will be designed to improve the quality of an area whether in urban or rural location and regardless of scale. Part b requires proposals to be consistent with the six qualities of successful places, these are:

- **Healthy:** supporting the prioritisation of women's safety and improving physical and mental health.
- **Pleasant:** supporting attractive natural and built spaces.
- **Connected:** supporting well connected networks that make moving around easy and reduce car dependency
- **Distinctive:** supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.
- **Sustainable:** supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.
- **Adaptable:** supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

- 7.29 **NPF4 Policy 14c** - states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of places, will not be supported.
- 7.30 The six qualities of successful places align with the principles of Policy 1 – High Quality Design and Placemaking of the Dundee LDP. This requires that all development proposals follow a design-led approach to sustainable, high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment.
- 7.31 The supporting information submits that the applicant supports girls, women's and walking football and run several different groups for women and men which are not necessarily football related. The proposal would aid prioritisation of physical and mental health as it would provide a base to support access to football and other sporting activities for a variety of users of all ages.
- 7.32 The proposed design of the building when assessed in the context of other development near to the site is considered to be of a high quality. It utilises high quality materials which include locally sourced sandstone facing, with the mass of the building broken up by a recessive grey sheeting to the upper half and roof, use of glazing and different ridge heights. The orientation of the building with its gable to Riverside Drive and adjacent to the neighbouring restaurant will result in a building which does not over dominate the open aspect which is currently enjoyed within the immediate area.
- 7.33 The applicant has provided a visual assessment of the development from a number of viewpoints which include Riverside Drive, the car parking area, and from Magdalen Yard Road at the bottom of Windsor Street, Taylors Lane, Shepherds Loan and Strawberry Bank. The visual impacts are not considered to be significant when read in relation to the existing car sales/garage building adjacent to the Tay Rail Bridge and the adjacent Bridgeview Station restaurant.
- 7.34 Historic Environment Scotland was consulted and made no comments on potential impacts to the setting of the Category A listed Tay Rail Bridge. Impacts to this view have been highlighted within objections to the application. The building will not affect views of the bridge or River Tay when viewed from the existing car parking area along the seawall. Impacts upon views of the bridge from the western approach into the city centre will not be significantly affected.
- 7.35 Flood lighting would be introduced to the site with six floodlights proposed to the 3G pitch in the northwestern corner of the site. There is already floodlighting associated with the neighbouring University pitches to the west. The provision of additional floodlighting would not be out of character with the immediate area.
- 7.36 It is proposed that a fence measuring between 3m and 5m high is erected around the boundary of the site. At present the hedge which runs along the boundary with Riverside Drive measures between 1m and 2m in height. The fence will sit inside this and will be visible unless the hedge is grown in height. The existing hedging will be extended along the eastern boundary of the site along the existing footpath and to the south of the proposed car parking area.
- 7.37 Details of proposed fencing within the site have not been provided in full. It is recommended that a detailed landscape plan is secured by condition to ensure that this matter can be further considered. A condition is also recommended to ensure that no screening, hoarding or netting is affixed to the boundary fencing to ensure that the open aspects which form part of the character of the area are largely retained.
- 7.38 In terms of connectivity, it is noted within the Design and Access Statement that the site is located immediately adjacent to the Green Circular and Core Path network. These provide



good cycle and pedestrian links to the site. It is also noted that public transport links include Dundee Railway Station (approximately 20 minutes' walk), Perth Road bus services (approximately 15-minute walk) and Dundee Airport (approximately 10 minutes' walk) from the site.

7.39 While there is no existing public transport immediately adjacent to the site, the current lawful use of the site must be taken into consideration. Access to the site will be as per existing arrangements in terms of non-car-based transport. Accessibility and connectivity will be further assessed in the following section of the report.

7.40 **The proposal complies with NPF4 Policy 14a and LDP Policy 1 subject to conditions.**

### **Traffic and Transport**

7.41 **NPF4 Policy 13: Sustainable transport**, with reference to part b) states that:

Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii will be accessible by public transport, ideally supporting the use of existing services;
- iii integrate transport modes;
- iv provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking; and
- vi are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles.

7.42 With regard to criterion i. the proposed development is immediately adjacent to the Ambassador Route and Green Circular and is therefore easily accessible via walking, wheeling and cycling.

7.43 With regard to criterion ii. the nearest bus stops are located on the Perth Road. It would fail to fully comply with criterion ii. The site would become a permanent place of work for 60 employees including office-based staff, players and coaches. This is in addition to the existing use as sports pitches. The employment use will generate additional travel over and above the existing travel patterns to the site.

7.44 With regard to criterion iii. this is related to larger scale development, and it would not be expected that this scale of development delivers integration of transport modes.

7.45 Criteria iv. – vi. – EV charging is not denoted on the plans. However, this is a matter which would be addressed through building standards requirements. The proposal will deliver 22 covered cycle parking spaces adjacent to the proposed building. There are existing, high-quality pedestrian and cycle links to the proposed development and an existing crossing point and paths to the facility between Perth Road and Riverside Drive. It is acknowledged that the crossing over the railway line is not an all-abilities access. However, there are other options

for reaching the site via car and cycle routes and Riverside Approach where there is a crossing point at the car garage.

- 7.46 With regard to criterion vii, the transport needs of users have been taken into consideration, the site has ample cycle parking for a development of this scale, adjacent to the Green Circular. Car parking along with disabled parking bays is provided within the site to accommodate permanent staff and visitors. Coach parking is also denoted on plan, with a condition recommended to secure a strategy for any exhibition match days.
- 7.47 Criterion viii requires the impact on local public access routes to be adequately mitigated. There will be no impact on existing local access after construction and a condition is recommended to ensure that active travel routes remain open during construction.
- 7.48 **LDP Policy 54: Safe and Sustainable Transport** - sets out similar criteria to NPF4 Policy 13. Due to the distance from a public transport network the proposal does not fully comply with Criterion 3 of LDP Policy 54.
- 7.49 **The proposal does not fully comply with NPF4 Policy 13bii) or LDP Policy 54 3) as the site is not served by public transport nor is it located within 400m walking distance of a public transport network.**
- 7.50 **NPF4 Policy 13c** - states that where a development proposal will generate a significant increase in the number of person trips, a transport assessment will require to be undertaken in accordance with the relevant guidance.
- 7.51 No full Transport Assessment has been submitted in support of the application. The Design and Access Statement states that the proposed development is situated adjacent to existing core paths and cycle routes, thereby supporting sustainable travel options. It is also stated that the nearest bus stop is approximately a 15-minute walk from the site although the submission goes no further. As addressed above, there are no bus stops within 400m of the site and the nearest bus stops on the Perth Road would be approximately 15 minutes walking time. A Transport Statement Form has been submitted with the application. This states that at the morning and afternoon peak times there will be between 40 – 45 additional vehicles (08:00-09:00 and 16:30-17:30).
- 7.52 As outlined above, the existing pitches are in use 1-2 evenings a week and during the day on weekends. The current lawful use of the site as sports pitches would be retained. The additional traffic generated from the office use is not considered to be significant over and above current and frequent vehicular movements within the area. No objections have been received from the Head of Sustainable Transportation and Roads.
- 7.53 As the vehicular movements proposed are not considered to generate a significant increase in trips over and above the existing vehicular movements at the site, a full Transport Assessment was not considered to be necessary.
- 7.54 **The proposal complies with NPF4 Policy 13c.**
- 7.55 **NPF4 Policy 13d** - states that development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area and part e states that development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people.

- 7.56 As the site is not well served by public transport it does not lend itself to being appropriate for low or no car parking. The traffic and vehicular impacts have been assessed and considered by the Head of Sustainable Transportation and Roads who has no objections. The road network and junctions can cope with the additional traffic within the area. Parking is an existing characteristic of the area due to the parking area along the flood wall and existing access by amateur clubs who rent the pitches and the associated parking requirements which includes spectators. It is acknowledged that the proposed use will introduce other activities in addition to the football training element. As assessed above it is not considered that based on the current lawful use of the site and in the context of existing vehicular movements in the area, the proposed development would generate significant vehicular movements over and above what is currently experienced in the vicinity of the site.
- 7.57 **The proposal complies with NPF4 Policy 13d.**
- 7.58 **NPF4 Policy 13f** - states that development proposals for significant travel generating uses, or smaller-scale developments where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a Travel Plan with supporting planning conditions/obligations. Travel plans should set out clear arrangements for delivering against targets, as well as monitoring and evaluation. This will be required as there is potential for the development to generate significant vehicular movements over and above the current use of the area.
- 7.59 The proposal shall generate an additional predicted 45 vehicular movements at peak times (between 07:30 and 08:30 and 16:30 – 17:30) with additional movements periodically through the day and when there are training events or exhibition games played. There are already approximately 120 car parking spaces adjacent to the site and constant vehicular movements from the neighbouring restaurant. In this context the proposal is not a significant travel generating use and therefore complies with NPF4 Policy 13f. The Head of Sustainable Transportation and Roads has requested a Travel Plan which will ensure that active travel measures are implemented on site and identify how the developer will promote active travel choices and how this will be managed and monitored over time.
- 7.60 **The proposal complies with NPF4 Policy 13f subject to condition.**
- 7.61 **LDP Policy 56: Parking** - states that for developments out with the 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.
- 7.62 LDP Policy 56 also requires EV charging to be provided within car parking areas and covered secure cycle parking and changing facilities within new development.
- 7.63 A total of 76 car parking spaces are proposed for a maximum of 60 people who will be employed at the facility including office-based and sports/training staff. Dundee City Council's Streets Ahead Road Standards Document does not have a specific category which would cover sports training facilities. However, part of the proposal would fall within an office use. The standards for office space located out with the City Centre with a footprint less than 2500m<sup>2</sup>, is between 2 and 5 spaces per 100m<sup>2</sup>. The office floor area is approximately 330m<sup>2</sup> therefore a maximum of 20 spaces would be required. This leaves an additional 56 spaces (including 4 accessible bays) for other users. The level of parking proposed is considered to be proportionate to the scale of development and uses proposed.
- 7.64 It is also noted that the car parking for users of the existing pitches comprises the 120 spaces to the south of the application site. These would continue to be available.

- 7.65 With regard to cycle parking, again Streets Ahead Road Standards Document does not have a specific category for this type of development. However, for office space it is specified that there shall be one space per 440m<sup>2</sup> of floor area. For uses such as health centres there should be one space per 8 parking spaces. The higher of the two would be the health centre use which would mean that there would have to be 9.5 cycle parking spaces. The 22 spaces proposed are well in excess of either the office use, or a health centre facility use and are therefore proportionate to the mixed use. There are changing facilities for users within the main building. A condition is recommended to secure more detail in regard to the provision of covered and secure staff cycle parking and provision for visitor parking.
- 7.66 The parking arrangements have been assessed by the Head of Sustainable Transportation and Roads, and there are no objections to the proposed arrangements.
- 7.67 **The proposal complies with LDP Policy 56 subject to condition.**

### **Flood Risk**

- 7.68 **NPF4 Policy 22: Flood Risk And Water Management Part a)** - states that development proposals at risk of flooding or in a flood risk area will only be supported if they are for:
- i essential infrastructure where the location is required for operational reasons;
  - ii water compatible uses;
  - iii redevelopment of an existing building or site for an equal or less vulnerable use; or;
  - iv redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long term safety and resilience can be secured in accordance with relevant SEPA advice.
- 7.69 The site is identified on SEPA flood maps as being at high risk of coastal flooding. However, there are existing flood defences adjacent to the site. Where there is flood protection, Policy 22a states:
- The protection offered by an existing formal flood protection scheme or one under construction can be taken into account when determining flood risk. In such cases, it will be demonstrated by the applicant that:
- all risks of flooding are understood and addressed;
  - there is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes;
  - the development remains safe and operational during floods;
  - flood resistant and resilient materials and construction methods are used; and
  - future adaptations can be made to accommodate the effects of climate change.
- 7.70 SEPA were consulted on the proposals and had no objections. Whilst it was acknowledged by SEPA that the site is at risk of flooding per SEPA's Coastal Future Flood Maps, SEPA consider the proposed development to be a water compatible use as it is for outdoor sports and recreation and essential facilities such as changing rooms. Water compatible uses are defined within NPF4. It was also noted that no land raising is proposed, and the formal coastal

flood protection scheme has a Standard Protection of 200-year plus Climate Change allowance.

7.71 **LDP Policy 36: Flood Risk Management part a)** - states that in medium to high risk areas there is a general presumption against development on previously undeveloped land. Part b relates to essential civil infrastructure. The proposal would not fall within this category so this is not relevant.

Whilst Policy 36 presumes against development, it is stated that other development may be acceptable where:

- 1 sufficient flood defences already exist, or a Flood Protection Scheme or flood defence, designed and constructed to a standard of 0.5% annual probability plus climate change allowance, will be in place prior to occupation of the proposed development;
- 2 those flood defences will be maintained for the lifetime of the development and will not increase the probability of flooding elsewhere;
- 3 the extent of development potentially affected by flooding is protected through the use of appropriate water resistant materials and construction; and
- 4 the finalised scheme does not result in a land use which is more vulnerable to flooding.

7.72 A Flood Risk Assessment was submitted and has been assessed by the City Engineer who has no objections subject to conditions which require a finalised drainage design and a full technical specification for the proposed relocation of the flood gate and boundary walls.

7.73 The closure of the flood gates is managed by the Council. To ensure that there are no conflicts between the closure of the facility and the closure of the flood gates, a flood risk monitoring strategy requires to be submitted. This will need to set out how the facility operator will monitor coastal flood risk warnings, for example via SEPA's flood line, and what criteria would trigger closure of the facility to ensure that this aligns with the Council's criteria for closure of the flood gate. A condition is also recommended to clarify what flood resilient materials and methods of construction will be implemented to provide further mitigation within the design.

7.74 **The proposal complies with NPF4 Policy 22a and LDP Policy 36 part a subject to condition.**

7.75 **NPF4 Policy 22c** relates to surface water drainage. It is stated that development proposals will:

- i not increase the risk of surface water flooding to others, or itself be at risk;
- ii manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue green infrastructure. All proposals should presume no surface water connection to the combined sewer; and
- iii seek to minimise the area of impermeable surface.

7.76 **LDP Policy 37: Sustainable Drainage Systems** - states that surface water discharging into the water environment from new development must be treated by SUDs and should be designed so that the water level during a 1:200-year rainstorm event plus allowance 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. Proposals should have no detrimental impact on the ecological quality of the water environment.

7.77 The proposed car parking area will be constructed of a permeable surface with connections into filter trenches which will serve run off from the proposed building and pavements, alongside the proposed 3G pitch. This will discharge into a cellular storage soakaway located to the south of the site, adjacent to the area denoted as being an exhibition pitch. These arrangements are acceptable to the City Engineer subject to a condition which requires a finalised technical design along with evidence that the arrangements will comply with the applicable standards.

7.78 **The proposal complies with NPF4 Policy 22c and LDP Policy 37 subject to condition.**

7.79 **NPF4 Policy 22d** - states that development proposals will be supported if they can be connected to public water mains. The application form clarifies that the proposed development will connect to public water mains. Any such connection will require to be agreed with Scottish Water.

7.80 **The proposal complies with NPF2 Policy 22d.**

#### **Dundee Airport**

7.81 **LDP Policy 55: Dundee Airport** – the proposal must be assessed against Policy 55 due to the proximity of the building and floodlighting to the airport. New developments in the vicinity of Dundee Airport will be required to be designed to comply with airport safety requirements. Developments which increase risk to airport safety will not be permitted.

Within the runway safety zone identified on the Proposals Map there will be a presumption against development. The presumption against development applies only to that area of the runway safety zone within the Dundee City Council administrative area.

Any development within or in the vicinity of Dundee Airport should not have an adverse effect, either alone or in combination with other proposals or projects, on the integrity of any Natura site.

7.82 Highlands and Islands Airport Limited and NATS Safeguarding are statutory consultees on the application due to the proximity to the airport. Based on the information submitted, no objections were raised. However, conditions were recommended. A Wildlife Hazard Management Plan shall be required to include details on how nesting birds will be dealt with when discovered. A condition is recommended to secure a crane permit from HIAL to ensure that aircraft are not endangered by tall equipment. A condition is also recommended to control the design of any construction related lighting to ensure safe operation of the aerodrome through confusion with ground lights/glare.

7.83 **The proposal complies with LDP Policy 55 subject to condition.**

#### **Zero Waste**

7.84 **NPF4 Policy 12: Zero Waste parts a, b and c** - part a states that development proposals shall seek to reduce, reuse or recycle materials in line with the waste hierarchy. Part b states that development proposals will be supported where they:

- i reuse existing buildings and infrastructure;

- ii minimise demolition and salvage materials for reuse;
- iii minimise waste, reduce pressure on virgin resources and enable building materials, components and products to be disassembled, and reused at the end of their useful life;
- iv use materials with the lowest forms of embodied emissions, such as recycled and natural construction materials; and
- v use materials that are suitable for reuse with minimal reprocessing.

7.85 NPF4 Policy 12c states that development proposals that are likely to generate waste when operational including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed including:

- i provision to maximise waste reduction and waste separation at source, and
- ii measures to minimise the cross-contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities.

7.86 This largely aligns with Policy 44 – Waste Management Requirements for Development of the Dundee LDP which requires development proposals to 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.

7.87 No demolition is proposed and there will be no salvageable waste. As the site is flat, there will be no significant soils/materials which could be re-used within the site. The materials to be used include recyclable and natural materials such as steel, timber and sandstone. In regard to waste management of both construction and operational waste conditions is recommended to secure more information to ensure full compliance with NPF4 Policy 12 and LDP Policy 44.

7.88 **The proposal complies with NPF4 Policy 12 and LDP Policy 44 subject to conditions.**

#### **Amenity**

7.89 **NPF4 Policy 23: Health and safety part d)** - states that development proposals that are likely to have significant adverse effects on air quality will not be supported. Development proposals will consider opportunities to improve air quality and reduce exposure to poor air quality. An air quality assessment may be required where the nature of the proposal or the air quality in the location suggest significant effects are likely.

7.90 **LDP Policy 40: Air Quality** - states that there is a general presumption against development proposals that could significantly increase air pollution.

7.91 The proposal does not raise significant concerns regarding the impact on air quality. It will not generate significant traffic over and above the current use of the immediate area and energy will be via renewable sources.

7.92 **The proposal complies with NPF4 Policy 23d and LDP Policy 40.**

7.93 **NPF4 Policy 23e** - states that development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive

development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.

- 7.94 **LDP Policy 39: Environmental Protection** - states that development which would generate noise, vibration, odour, emissions to air, dust or light pollution will require to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area.
- 7.95 The Head of Communities, Safety and Protection (Environmental Health) has considered the proposal and has no objections on noise, lighting or amenity grounds subject to conditions which restrict noise levels from plant and machinery, restrict the operation of the pitches and associated flood lighting, secure the location of the spectator stand as assessed within the Noise Impact Assessment and restrictions around the use of tannoys and speakers.
- 7.96 **The proposals comply with NPF4 Policy 23e and LDP Policy 39 subject to condition.**
- 7.97 **NPF4 Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings** - with reference to part c states that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use.
- 7.98 **LDP Policy 41: Contaminated Land** - states that 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.
- 7.99 The application is supported by a Contaminated Land Assessment, the Head of Communities, Safety and Protection (Contaminated Land) has reviewed this and advised that there was some contamination found within soils at the site. A remediation scheme is required which sets out how any contamination at the site will be dealt with. A condition is recommended to secure this.
- 7.100 **The proposal complies with NPF4 Policy 9c and LDP Policy 41 subject to condition.**
- 7.101 **LDP Policy 2: Public Art Contribution** - requires all development in Dundee with construction costs of £1 million or over require 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. Consideration should be given to a public art concept within the formal planning application, and it is likely that delivery of the public art would be sought prior to first use of the development unless otherwise agreed. This is a matter which can be secured by condition.
- 7.102 **The proposal complies with LDP Policy 2 subject to condition.**

#### **Climate and Nature Crises**

- 7.103 **NPF4 Policy 1: Tackling the climate and Nature Crises** - states that when considering all development proposals significant weight will be given to the global climate and nature crises.
- 7.104 **NPF4 Policy 2: Climate Change and Adaptation** - goes further, parts a) and b) are of most relevance to this proposal, these require all development proposals to be sited and designed



to minimise lifecycle greenhouse gas emissions; and for proposals to be sited and designed to adapt to current and future risks from climate change

7.105 **LDP Policy 1: High Quality Design and Placemaking** - also makes reference to proposals being designed with reference to climate mitigation and adaptation.

7.106 **LDP Policy 48: Low and Zero Carbon Technology in New Development** - requires 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 the supplementary guidance.

7.107 The Design and Access Statement submitted in support of the application outlines an Environmental Strategy which states that the proposed design will follow Net-Zero and Carbon neutral design principles which include measures such as:

- using long lasting, locally sourced and recyclable materials;
- high levels of insulation and placement of windows and doors to maximise solar gain;
- renewable heating through ground source heat pump, solar PV panels and EV charging;
- promotion of sustainable transport modes to and from the facility; and
- retention and enhancement of planting.

7.108 The proposed measures are acceptable in principle and more detail can be secured by way of a planning condition. However, as the submitted plans submitted do not include any details of solar panels or the location of ground source heat pumps, a condition is recommended to secure further detail on the ground source heat pumps. As the solar panels are likely to require planning permission in their own right due to proximity to the airport, the condition also clarifies that solar panels do not form part of any approved plans.

7.109 **The proposal complies with NPF4 Policies 1 and 2 and LDP Policies 1 and 48 subject to condition.**

### **Biodiversity**

7.110 **NPF4 Policy 3: Biodiversity** - applies to all development proposals. The intent of this Policy is to reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Part a of Policy 3 states that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

7.111 **Part b of NPF Policy 3** - relates to national and major developments where an Environmental Impact Assessment is required. The proposal is not a major development. Whilst it does meet with the applicable thresholds set out within the Environmental Impact Assessment Regulations as an urban project which exceeds a site area of 0.5 hectares, the proposal will not have a significant impact on the receiving environment. As such, it was determined that an Environmental Statement was not required. Further to this NatureScot were consulted on the application and had no comments to make.

- 7.112 One third party objection noted that an Appropriate Assessment was not carried out. NatureScot only recommend that an Appropriate Assessment is carried out where there is potential for a development proposal to adversely affect the integrity of a European site. No objections have been raised by NatureScot and consequently no Appropriate Assessment or mitigation to protect the qualifying interests of the Inner Tay Estuary designated site are recommended.
- 7.113 **Part d of NPF Policy 3** - states that any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration.
- 7.114 The proposal will not have a significant detrimental impact on the surrounding environment nor will there be a significant biodiversity loss. Trees adjacent to the site are to be retained and additional planting is proposed. A condition is recommended to secure a detailed landscaping plan alongside a schedule of maintaining landscaping on site in perpetuity. A further condition is recommended to secure further detail specifically on achieving net biodiversity gain. This could include measures to support red squirrels, evidence of which was noted along the northern tree line adjacent to the site within the Tree report.
- 7.115 **The proposal complies with NPF4 Policy 3 subject to conditions.**

#### Trees

- 7.116 **NPF4 Policy 6: Forestry, Woodland and Trees** - seeks to protect trees and woodland. Policy 6b with particular reference to parts i and ii which relate to individual trees it is stated that development proposals will not be supported where:
- any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition; and
  - adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy.
- 7.117 **LDP Policy 35: Trees and Urban Woodland** - states that new development must ensure the survival of woodland, hedgerows and individual trees, especially healthy, mature trees. Where such trees are to be lost proposals must be accompanied by a justification for the removal of any trees.
- 7.118 A Tree Survey of the trees along the western boundary of the site has been undertaken. No tree removal is proposed. The main impact to trees would be to the northern tree group at the north western extent of the site, adjacent to the proposed 3G pitch. A Tree Protection Plan has been submitted to ensure root protection areas are safeguarded from any construction impacts. It is also submitted that the formation of the pitch will be by way of a non-mechanical excavation to preserve tree roots using a no dig surface methodology. The Head of Environment raised no objections and a condition is recommended to secure the proposed method of protecting trees for the avoidance of doubt.
- 7.119 **The proposal complies with NPF4 Policy 6 and LDP Policy 35 subject to condition.**

### Protected Species and Natural Environment

- 7.120 There are natural heritage designations immediately adjacent to the site including an SAC, SPA, SSSI and RAMSAR site.
- 7.121 **NPF4 Policy 4: Natural Places** - part a) states that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.
- 7.122 Part b states that development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an “appropriate assessment” of the implications for the conservation objectives.
- 7.123 As the Inner Tay Estuary SSSI (designated for breeding birds) is in vicinity to the site, part c of Policy 4 states – development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:
- i the objectives of designation and the overall integrity of the areas will not be compromised; or
  - ii any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

All Ramsar sites are also European sites and/ or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.

- 7.124 **LDP Policy 32: National and International Nature Conservation Designations** - where internationally important sites are concerned states that:

Development which is likely to have a significant effect on the qualifying interests of any Natura site will only be permitted where information to inform a Habitats Regulations Appraisal has been provided to the Council and:

- 1 if required an Appropriate Assessment has demonstrated that the proposal will not adversely affect the integrity of the site; or
- 2 where there are no alternative solutions and there are imperative reasons of overriding national public interest, including those of a social or economic nature and suitable compensatory measures have been identified and agreed.

- 7.125 For national sites:

Development which would affect a designated site of national nature conservation importance will only be permitted where it has been demonstrated that:

- 1 the objectives of the designation and the overall integrity of the area will not be compromised; or
- 2 any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance arising from the development.

7.126 **LDP Policy 34: Protected Species** - states that development proposals which are likely to have a significant effect on a European protected species will not be supported unless:

- 1 there is no satisfactory alternative; and
- 2 the development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature or which have beneficial consequences of primary importance for the environment.

Development proposals which would be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range will not be supported.

Development proposals that would be likely to have an adverse effect on a species protected under the Wildlife and Countryside Act 1981 (as amended) will not be supported unless the development is required for preserving public health or public safety. For development affecting a species of bird protected under the 1981 Act there must also be no other satisfactory solution.

7.127 NatureScot are a statutory consultee where impacts to the designations described along with their qualifying interests (protected species) above could be affected. NatureScot were consulted and had no comments to make and did not advise that an appropriate assessment be carried out, nor was it recommended that any planning conditions be attached to the application.

7.128 It is noted within the tree report that evidence of red squirrel was found within the trees on site. As no trees are to be affected there would be no impact. The biodiversity enhancement details that will be secured by condition will require to include details on measures to support red squirrel habitat.

7.129 **The proposal complies with NPF4 Policy 4 and LDP Policies 32 and 34.**

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

## **MATERIAL CONSIDERATIONS**

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

### **A - SUPPORTING INFORMATION**

7.132 All of the information submitted in support of the application has been considered within the main body of the report.

### **B - OTHER RELEVANT STATUTORY OR NON STATUTORY STATEMENTS OF POLICY**

7.133 Dundee Physical Activity Strategy sets out several priorities to improve public health and wellbeing of residents. Where sports provision is concerned key priorities are identified. These are assessed in turn:

- 7.134 Priority 1 - everyone will have the opportunity to get involved and participate in sport and stay involved throughout their life whilst developing and achieving success at their chosen level of sport:
- the proposal would broadly support the above priority and allow for professional development of varying levels of footballer.
- 7.135 Priority 2 - Resources - To provide Dundee with the highest possible standard of sporting facilities and support a strong network of people at all levels of sport:
- overall, it is acknowledged that this is an area of open space/outdoor sports facility and that the provision of a new 3G pitch, 100 seat spectator stand and indoor facilities would likely allow development and achievement at a number of different levels of football as set out in Priority 2.
- 7.136 Priority 3 - Profile: To increase the profile of sport and better promote Dundee as a sporting city:
- with regard to priority 3, it is noted within the supporting information that the intention is to provide a facility which could accommodate teams from overseas, that being the case it would assist in promoting Dundee as a sporting city.
- 7.137 Priority 4 – Leadership & Governance - Partners will ensure an integrated coordinated and planned approach to the delivery of the Sport & Recreation Framework:
- this is a matter largely out with the remit of the Planning Authority however it is understood that there will be a number of partners involved in the delivery of the proposed facility.
- 7.138 On the basis that the facility is available for public use for the whole community, the proposal broadly complies with the strategic priorities in regard delivery of sports provision This is a matter which is subject to a planning condition and would also be secured out with the planning consent through the leasing arrangements with the Council.

### **C - JUSTIFICATION FOR DEVELOPMENT PLAN DEPARTURE**

- 7.139 The proposal does not fully comply with NPF4 Policy 13bii) or LDP Policy 54 3) as the site is not located within 400m walking distance of a public transport network. As assessed in detail within the report consideration has to be given to the current lawful use of the site. It has an existing use as training pitches and therefore already generates vehicular movements through that use. The site will however become a work base for Community Trust and club operations, introducing office space which is not currently a use on the site but is ancillary to the training facility operation.
- 7.140 While there is no immediately adjacent bus service at the site, there are very good bus services accessible on Perth Road. The site is approximately 600m from the nearest bus stops which benefit from pedestrian crossings both on the approach from Magdalen Green and Roseangle/ Riverside Approach. The location of the site adjacent to the Green Circular route results in good active travel connectivity to both the east and west sides of the City by cycling/wheeling and walking.
- 7.141 The lawful use of the site at present is for sports pitches. This will remain unchanged, however there will be additional traffic to the area through the training building which also accommodates offices and will become a permanent place of work. There are strong active travel linkages to the site. Cycle storage and changing facilities along with a Travel Plan are all secured by conditions which will support and encourage active travel.

- 7.142 Given the current use of the site and traffic generated by this use, the strong active travel linkages to the site and measures to encourage active travel, a 200m shortfall in the distance to the nearest bus stop location would not, when balanced against the overarching positive impacts that the facility can deliver, be a reason to justify refusal of planning permission.
- 7.143 The proposal does not comply with the principles of NPF4 Policy 27 - Town Centres First, or LDP Policy 21 - Town Centre First Principle as it does not prioritise a city centre location for the office facilities which are proposed, and no sequential assessment has been provided to clarify that city centre sites have been discounted. The location and nature of the use are material considerations which may support a departure from these policies.
- 7.144 The area at present is well used and relatively busy due to the waterfront location, parking, the Bridgeview Station restaurant and the use of the football pitches by local teams. These uses generate a level of footfall to the area. The proposal would generate additional footfall as a result of the office accommodation above the sporting element of the proposed building. The transportation information submitted indicates that there would be a total of 60 people employed at the facility. The staff who would be accessing the building are currently located across the city including at Dens Park, Gardyne College and the Regional Performance Centre. The proposed office use will not divert existing footfall away from the City Centre or district centres. Further to this, the office and staff accommodation on site at the training facility would complement the existing use as training pitches. It would also generate less vehicular movements than having training sessions at the site and then necessitating travel elsewhere and it is unlikely that the level of playing surfaces which exist at Riverside could be delivered within the City Centre to allow for an all-encompassing facility within the city centre.
- 7.145 For these reasons the location and nature of the use are material considerations of sufficient weight to justify supporting the proposals contrary to the public transport requirements of NPF4 Policy 13bii) and LDP Policy 54 3), and the town centres first principles contained in NPF4 Policy 27 and LDP Policy 21.

## D – REPRESENTATIONS

- 7.146 61 objections have been received. The grounds of objection are considered and assessed as follows:
- 7.147 **Objection** - car parking excessive.
- 7.148 **Response** – the car parking proposed is proportionate to the level of development proposed. The car parking will ensure that there are no off-site parking impacts.
- 7.149 **Objection** - additional traffic and congestion.
- 7.150 **Response** – there will be additional traffic at peak times in the morning and evening (office hours). The Head of Sustainable Transport and Roads does not object to the proposed use of the existing junction.
- 7.151 **Objection** - off-site traffic and parking impact to nearby residents.
- 7.152 **Response** – the traffic and parking will be contained on and adjacent to the site to ensure no impact on nearby residents. As there are 76 spaces within the site, and approximately 120 spaces at Riverside it is unlikely that traffic generated when the site is at its busiest will affect residents to the north and Magdalen Green and beyond. As some users will also travel by coach this further reduces vehicle numbers. Further to this a Site Event Management Plan is required by condition in order to secure more details on how traffic will be managed on busier days.

- 7.153 **Objection** - not accessible by public transport, 600m away from Perth Road not a local bus route to the site, 76 parking spaces, increase travel by car, contrary to LDP Policy 54.
- 7.154 **Response** – it is acknowledged in the report there is no direct bus service to the site. However, it requires to be borne in mind that this is an existing use with existing arrangements in place which will be utilised. The main issue which requires consideration in assessing active travel options is that the site will become a place of work on a permanent basis. The Perth Road bus stops would be approximately a 15 minute walk to the site. Whilst this is more than the 400m specified, given the existing use of the site and the improved facility, and that it is adjacent to the Green Circular, the distance from local bus stops is considered acceptable.
- 7.155 **Objection** - additional traffic emissions contrary to LDP Policy 39.
- 7.156 **Response** – the proposal will introduce approximately 45 additional vehicles to the area over and above the current vehicular movements associated with the existing car parking and restaurant. This is not significant when compared to existing vehicular movements in the area. Environmental Health did not raise any concern around air quality.
- 7.157 **Objection** - impact to active travel links, Rights of Access, Green Circular and Ambassador Route used by all.
- 7.158 **Response** – all active travel links and routes will require to remain open during and after construction. A Construction Traffic Management will require to be submitted in support of any application in order to address this matter and any temporary diversions required will have to be agreed through such a submission.
- 7.159 **Objection** - access rights to the site cannot be upheld as required by Section 13(1) of the Land Reform Scotland Act.
- 7.160 **Response** – the above legislation relates to the duty of Local Authorities to assert, protect and keep open and free from obstruction or encroachments any route, waterway or other means by which access may be reasonably exercised. As described above routes will be retained and there is no route through the pitches which requires to be upheld.
- 7.161 **Objection** - changes suggested to materials, generic building design, contrary to Policy 1
- 7.162 **Response** – the design has been assessed within the report and is considered to be of high quality, utilising appropriate materials.
- 7.163 **Objection** - visual impacts from substantial fencing, scale of development out of keeping with the area, football branding inappropriate at entrance to city.
- 7.164 **Response** – the impact of the proposed fencing can be minimised through the submission of a landscaping plan. This will be controlled by condition. The fencing proposed is compatible with the sports pitch use. A condition is recommended to ensure that there is no screening, hoarding or netting affixed to fencing to minimise obstruction of open aspects of the wider area. If the branding referred to relates to club crests for example, it should be noted that any signs/branding will require separate consent from the Council and does not form part of these proposals.
- 7.165 **Objection** - floodlighting should be acceptable to relevant authorities.
- 7.166 **Response** – HIAL has commented and has no objection subject to conditions. Environmental Health has also considered the floodlighting and has no objections subject to the hours of operation being controlled by condition.

- 7.167 **Objection** - light pollution from flood lights, sky glow.
- 7.168 **Response** – there will be light pollution from the floodlights however there is already flood lighting. on the adjacent site, at the garage and the nearby airport. Any additional impact on skyglow in this context will not be significant and conditions require the lights to be turned off by 9.00pm.
- 7.169 **Objection** - loss of community asset, public green space and accessibility to this which should remain available to all including local clubs, dog walkers, use as an events space, picnicking, rounders/cricket, tourists, children, residents, visiting one off events, runners, walkers.
- 7.170 **Response** – it is acknowledged within the report that the informal opportunity for play and use of the pitches would be lost through the enclosure of the site. The active travel routes will still be available to walkers/runners. Local sports clubs and community groups will still be able to rent out and use the pitches at current rates. This will be secured by condition and as part of the lease. There are opportunities on the opposite side of Riverside Drive for informal play, recreation and occasional events.
- 7.171 **Objection** - impacts to wildlife, fragmentation of wildlife corridors, impact to trees, adjacent RAMSAR, SAC, SPA. Appropriate Assessment is required. Contrary to LDP policies 28, 29, 34
- 7.172 **Response** – NatureScot is a statutory consultee where there are natural heritage designations. No concerns were raised. An Appropriate Assessment is not required as the impacts on the receiving environment are not significant. The site itself is not part of a wildlife corridor although it is noted that red squirrel was found in the trees (which are to be unaffected) Biodiversity measures are to be secured by condition which could include measures to support the existing population around the site. The proposal has been assessed against LDP policies 28,29 and 24 above and found to be compliant.
- 7.173 **Objection** - no EIA has been carried out.
- 7.174 **Response** – the Council adopted a screening opinion as required by the Environmental Impact Regulations as an urban development project over 0.5 hectares. Given the existing use of the area and the surrounding development, it was determined that EIA was not required.
- 7.175 **Objection** - impact to amenity of local residents from noise, 100 seat stand
- 7.176 **Response** – use of the stand is likely to be infrequent. Environmental Health has assessed the Noise Impact Assessment and found that subject to planning conditions, there would be no significant noise impact from the 100 seat stand. These conditions relate to matters including the operation of the pitches; the position of the spectator stand; and no use of tannoy/speaker announcements.
- 7.177 **Objection** - Conservation Area not protected – include views across the vista and iconic views to residents and tourists, key entrance to city impacted (Tay Bridge, Magdalen Bandstand listed)
- 7.178 **Response** – the views within and outwith the conservation area will not be significantly affected when viewed in relation to existing development at Riverside. Historic Environment Scotland were consulted on the application and had no comments on the Tay Bridge and commented that there would be no impact on the Magdalen Green Band Stand.
- 7.179 **Objection** - loss of public amenity space to relocate main office – commercial enterprise, private interest training facility and office, not community hub, not to benefit wider public.



- 7.180 **Response** – it is acknowledged that there will be the loss of one pitch and the informal opportunity to use the pitches. SportsScotland are a statutory consultee and did not object on the basis that this is an improved facility. While it is acknowledged that there is a private/commercial interest in that the main operation of the club will also be sited here, the facilities and pitches will still require to be available to grassroots/amateur teams and as an improvement over the current facility, on balance is welcomed. As described above there is open space on the opposite side of the road adjacent to the pavilion which can still be utilised by the wider public and a safe crossing point to this is also available.
- 7.181 **Objection** - contrary to Council's Open Space Strategy as no longer open to wider public to enjoy, impacts on health and well-being which arise from loss of facility.
- 7.182 **Response** – the proposals will not result in the loss of the facility, only the loss of informal opportunities for play. The improved facility will still be available to rent to those clubs who utilise this, public open space is still available on land adjacent to the Riverside pavilion and also at Magdalen Green alongside the green circular routes around the site. With all of this in mind access to open public space is still maintained in vicinity to the site it is therefore not considered that there will be significant detrimental impact to health and well-being of residents as a result of the proposed development.
- 7.183 **Objection** - should be no development on a flood plain, SEPA flood maps denote as medium - high risk. Historic flooding to area a concern
- 7.184 **Response** – SEPA are a statutory consultee and have confirmed that they consider the proposed use to be a water compatible use and that while the area is defined as being at risk of coastal flooding, the existing and proposed use of the site, along with the flood defences did not result in any objection.
- 7.185 **Objection** - concern around effects on existing flood defences to accommodate the development, it is not a water compatible use contrary to LDP Policy 36 and NPF Policy 22.
- 7.186 **Response** – NPF4 defines sports training facilities and changing facilities as water compatible uses. This is what is accommodated on the ground floor of the building and could be most affected by flooding. No adverse comments were received in regard to the office use above.
- 7.187 **Objection** - using this site instead of Camperdown proposal still public space.
- 7.188 **Response** – the planning application requires to be considered on its individual merits.
- 7.189 **Objection** - runway safety zone, LDP Policy 55 presumes against development in runway zone.
- 7.190 **Response** – HIAL and NATS Safeguarding were consulted and had no objections subject to conditions.
- 7.191 **Objection** - absence of any information regarding contaminated land.
- 7.192 **Response** – a Contaminated Land Assessment was submitted and the Head of Communities Safety and Protection (Contaminated Land) has recommended a planning condition to secure more information prior to works starting on site.
- 7.193 The issues raised in the objections have been considered and addressed in the report and the grounds raised are not of sufficient weight to justify refusal of planning permission.

7.194 38 representations in support of the application have been received stating the following:

- much needed sporting facility for Dundee and all in the city;
- enhance grassroots and women's football in the city;
- city needs a high end top class facility;
- much needed investment in the City, boost economy;
- site will benefit from redevelopment;
- high quality design, reduces visual impact on area;
- creates job opportunities;
- less development at Camperdown leaves more green space in that area;
- easy location to reach;
- will address public health needs; and
- community hub for people to meet for education, social engagement, training, skills development.

7.195 The issues raised in the supporting representations have been considered and addressed in the report and the points made support approval of the application.

7.196 **It is concluded that there are material considerations of sufficient weight in this case to justify approval of planning permission.**

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## 8 CONCLUSION

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8.1 The application for the erection of a sports training and office building, plant/storage building, fencing and spectator stand and installation of 3G pitch, floodlights, relocation of storm gate and associated access, parking and drainage is not fully in accordance with the Development Plan. There are material considerations of sufficient weight that justify approval of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

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## 9 RECOMMENDATION

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9.1 It is recommended that planning permission be GRANTED subject to the following condition(s):

1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.

**Reason** - to comply with Section 58 of the Town & Country Planning (Scotland) Act 1997.

2 **Condition** - any reconstructed grass pitches and the new full size synthetic grass pitch shall be designed and constructed by a recognised (e.g. SAPCA registered) specialist

pitch contractor. Details of contractor(s) and pitch specifications shall be submitted to, and approved in writing by, the Planning Authority prior to the commencement of development. Thereafter the development shall be completed in accordance with the approved details.

**Reason** - to ensure that the pitches are of a suitable quality.

- 3 **Condition** - a safeguarding scheme which protects pitches to be retained during the construction period, shall be submitted for the written approval of the planning authority prior to the commencement of development. The approved scheme shall be implemented for the duration of the construction period.

**Reason** - to ensure pitches remain accessible and protected during construction.

- 4 **Condition** - no development shall commence until details of a pitch availability and booking framework have been submitted to and agreed in writing by the Planning Authority. This framework shall include details of:

- i the percentage of pitch availability when the pitches can be booked for use by local user groups or teams (i.e. hours of the day when pitches can be used for sports training or matches); and
- ii measures to ensure the cost to those local user groups or teams of hiring a pitch is comparable to, or better than the cost of hiring equivalent local authority pitches.

The agreed framework shall be adopted and implemented prior to the first use of the pitches and used in perpetuity unless otherwise agreed in writing by the Planning Authority.

**Reason:** to ensure the level of pitch availability to local user groups and teams is maintained in accordance with NPF4 Policy 21.

- 5 **Condition** - no development shall commence until full details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

- i all earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii a plan showing existing landscaping features and vegetation to be retained;
- iii the location and design, including materials, of any existing or proposed walls, fences and gates; and
- iv all soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities;

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

**Reason** - in order to allow the Planning Authority to consider the matter in more detail, in the interest of visual amenity and to ensure that any trees or planting which dies is replaced.

- 6 **Condition** – no development shall commence until a programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works has been submitted to, and approved in writing by the Planning Authority. For the avoidance of doubt this shall include a schedule of maintenance for the following features:
- i grass pitches;
  - ii synthetic grass pitch;
  - iii all hard and soft landscaping within the site;
  - iv all new and existing trees within and on the boundary of the site; and
  - v both sides of the existing hedge on the Riverside Drive boundary

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Thereafter all landscaping shall be maintained by the operator of the site in perpetuity unless otherwise agreed in writing by the Planning Authority.

**Reason** - in order to ensure that landscaping is maintained on site in the interest of visual amenity.

- 7 **Condition** - for the avoidance of doubt no hoarding, screening or netting of any type shall be affixed to any of the boundary fencing.

**Reason** - to protect the open aspect of the site in the interest of visual amenity.

- 8 **Condition** - all works and protective measures necessary to safeguard the trees on the site during development operations shall be undertaken as per BS 5837:2012. The protective measures shall be retained in a sound and upright condition throughout the development operations and no building materials, soil or machinery shall be stored in or adjacent to the protected area, including the operation of machinery.

**Reason** - to protect those trees which are of significant amenity value to the area and which would ensure a satisfactory standard of appearance of the development.

- 9 **Condition** - no development shall commence until a scheme of features or measures to conserve, restore and enhance biodiversity, such as those measures set out in the NatureScot Developing with Nature guidance, shall be submitted for the prior approval of this planning authority. The approved details thereafter shall be implemented prior to the first operation of the development and then retained and maintained for their designed purpose in accordance with the approved scheme. For the avoidance of doubt any such plan shall include measures to support the red squirrel population which have been found adjacent to the site.

**Reason** - in the interests of conserving, restoring and enhancing biodiversity and to support protected species known to be using the area.

- 10 **Condition** - no development shall commence until a remediation scheme to deal with any contamination at the site has been submitted to and approved in writing by the planning authority. The scheme shall contain proposals to deal with contamination to include:

- i the nature, extent and type(s) of contamination on the site;
- ii measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
- iii demonstration of the durability and expected life-span of the remediation;
- iv measures to deal with contamination during construction works; and
- v verification of the condition of the site on completion of decontamination measures.

**Reason** - in order to ensure that contamination on site is dealt with appropriately in the interest of health and safety.

- 11 **Condition** - before any part of the development hereby approved is occupied the remediation scheme shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation strategy have been achieved shall be submitted to and approved by the planning authority.

**Reason** - in order to ensure that contamination on site is dealt with appropriately in the interest of health and safety.

- 12 **Condition** - the total noise from the mechanical and electrical plant/services shall not exceed NR45 during daytime and shall not exceed NR35 during night-time, as measured 1 metre external to the facade of any nearby residential property.

NR45 is applicable for the period 07:00 to 23:00 hours and NR35 is applicable for 23:00 to 07:00 hours.

**Reason** - in the interest of amenity.

- 13 **Condition** - the floodlighting hereby approved shall only be operational between 09:00 hours to 21:00 hours Monday to Saturday and 14:00 hours to 19:00 hours on a Sunday and at no other time.

**Reason** - in the interest of residential and visual amenity.

- 14 **Condition** - for the avoidance of doubt the moveable spectator stand hereby approved shall not be sited any closer to noise sensitive receptors as shown within the submitted NIA and there shall be no tannoys or public address systems installed.

**Reason** - in the interest of nearby residential amenity from noise impacts.

- 15 **Condition** - no development shall commence until a Wildlife Hazard Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with HIAL. This shall detail how the developer and any future operator of the site will prevent any birds nesting, roosting or loafing on the building. Any birds found nesting, roosting or loafing must be dispersed by the owner/occupier when detected, or when requested by HIAL Airport. The owner/occupier must remove any nests or eggs found on the roof. The owner/occupier will collaborate with HIAL regarding site access to carry out wildlife management activities.

**Reason** - it is necessary to manage the development to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Dundee Airport.

- 16 **Condition** - if a crane, or tall construction equipment is to be utilised, a crane permit must be obtained from HIAL. Any crane/tall equipment must be approved by HIAL before operation can commence.

**Reason** - to ensure that construction work and construction equipment on the site and any adjoining land does not breach the Obstacle Limitation Surface (OLS) or the Instrument Flight Procedures (IFPs) surrounding Dundee Airport and endanger aircraft movements and the safe operation of the aerodrome.

- 17 **Condition** - lighting schemes required during construction, and for the completed development shall be of a flat glass, full cut off design, mounted horizontally, and shall ensure that there is no light spill above the horizontal.

**Reason** - to avoid endangering aircraft movements and the safe operation of the aerodrome through confusion with aeronautical ground lights, or glare.

- 18 **Condition** - prior to the first occupation of the development hereby approved a Travel Plan shall be submitted to and approved in writing by the Planning Authority. For the avoidance of doubt this shall include:

- i details of the implementation of any active travel measures between the site and the surrounding area;
- ii details for the management, monitoring, review and reporting of these measures; and
- iii details of the duration of the Travel Plan.

The approved Travel Plan shall thereafter be implemented from the date of the first operation of any part of the development hereby approved.

**Reason** - in the interests of vehicle and pedestrian safety and promoting sustainable transport.

- 19 **Condition** - prior to the first occupation of the development hereby approved a Site Traffic Event Management Plan shall be submitted to and agreed in writing by the Planning Authority.

**Reason** - in the interests of vehicle and pedestrian safety and promoting sustainable transport.

- 20 **Condition** - no development shall commence until full details of secure, covered cycle parking for employee use alongside cycle parking for visitors and users of the facility to be situated within the site have been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt this shall include floor and elevation plans. Thereafter the agreed cycle parking shall be installed and available for use prior to first occupation of the development hereby approved.

**Reason** - in the interests of vehicle and pedestrian safety and promoting sustainable transport.

- 21 **Condition** - no development shall commence until full details of electric vehicle charging points have been submitted to the Planning Authority. For the avoidance of doubt this shall include the number and location of EV charging points within the site. Thereafter, the development shall progress in accordance with the approved details.

**Reason** - to ensure sustainable transport can be accommodated on site.

- 22 **Condition** - no development shall commence until full details of shared foot/cycleway which links the existing path to the north of the site have been submitted to and approved in writing by the Planning Authority. The path shall be completed in accordance with the approved details and available for use prior to the first occupation of the development.

**Reason** - in the interests of vehicle and pedestrian safety and promoting sustainable transport.

- 23 **Condition** – no development shall commence until a flood risk monitoring strategy is submitted to and approved in writing by the Planning Authority. For the avoidance of doubt this shall include:

- i detail on how flood risk will be monitored;
- ii confirmation of what criteria would be met for building closure; and
- iii a plan showing means of access and egress to and from the site in the event that the car parking area becomes impassable in a flood event. For the avoidance of doubt the location and design of this shall be shown on the plan and it shall be clarified if this is for pedestrians or vehicles.

The agreed strategy shall be adopted and implemented prior to the first use of the development hereby approved and enforced in perpetuity unless otherwise agreed in writing by the Planning Authority.

**Reason** – to ensure there are procedures in place for the evacuation or closure of the facility prior to a flood event and that these are coordinated with the Dundee City Council procedures for flood gate closure.

- 24 **Condition** - no development shall commence until the full technical design of the proposed modification to the existing Dundee Coastal Flood Protection Scheme has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt this shall include:

- i a detailed site plan which denotes the final location of the flood gate;
- ii full details on the extent of the set back flood wall and the design and materiality of this;
- iii the design of the new flood gate;
- iv the method and means of stopping up the pedestrian maintenance gate on the south boundary wall including materials to be used;
- v the relocation of the cycle parking spaces;
- vi all proposed changes to road markings, geometry and layout required to accommodate the proposed modification.

**Reason** - as finalised details have not been provided in order to ensure that the location and final design is acceptable to the Council in the interests of flood protection.

- 25 **Condition** – no development shall commence until details of measures to manage surface water run-off from the site during construction have been submitted to and approved in writing by the Planning Authority. Thereafter all works approved by virtue of this condition shall be implemented in full.

**Reason** - to ensure that surface water is appropriately managed during the construction phase of the development.

- 26 **Condition** - no development shall commence until full details of maintenance responsibilities and a maintenance schedule for the surface water drainage system/SUDs features have been submitted to, and approved in writing by the Planning Authority. Thereafter the maintenance schedule shall be implemented and carried out by the operator as of the site in accordance with the approved details in perpetuity.

**Reason** - to ensure that surface water is managed on site.

- 27 **Condition** - prior to the commencement of any works on site, a detailed surface water drainage/ SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in section 26.7.1 of the CIRIA SUDS Manual (C753), and where appropriate SEPA comments shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

**Reason** - in the interests of flood protection.

- 28 **Condition** - no development shall commence until a finalised schedule of all external materials and finishes has been submitted to and approved in writing by the Planning Authority. This schedule shall incorporate flood resilient materials and outline the use of flood resilient building techniques to be used on all structures within the development. Thereafter, development and work shall progress in accordance with the approved details

**Reason** - in the interests of visual amenity and to promote the use of flood resilient materials and building design.

- 29 **Condition** - no development shall commence until a scheme of public art to be provided within the development hereby approved has been submitted to and approved in writing by the Planning Authority. Thereafter, the approved scheme of public art shall be installed prior to first occupation of the development hereby approved.

**Reason** - in the interests of enhancing the amenity and environmental quality of the development.

- 30 **Condition** - prior to the first occupation of the development hereby approved an Operational Waste Management Plan shall be submitted to, and approved in writing by the Planning Authority. Thereafter, the Operational Waste Management Plan shall be implemented and maintained in perpetuity unless otherwise agreed in writing by the Planning Authority

**Reason** - to ensure that waste on site is managed on site in a sustainable manner.

- 31 **Condition** - no development shall commence until a Construction Waste Management Plan is submitted to and approved in writing by the Planning Authority. This shall contain details of how site waste will be managed during the construction of the development.



**Reason** - in the interest of sustainable waste management.

- 32 **Condition** - prior to the commencement of works, a traffic management plan for all construction works on site, shall be submitted to and approved in writing by the Planning Authority. Thereafter construction traffic shall access and exit the application site in strict accordance with the approved management plan. For the avoidance of doubt, the traffic management plan shall include details of parking for construction workers alongside measures to ensure that all active travel routes adjacent to the site remain open and free from obstruction throughout the construction period.

**Reason** - in the interest of road and pedestrian safety.

- 33 **Condition** - no development shall commence until full details of proposed ground source heat pumps have been submitted to, and approved in writing by the Planning Authority. For the avoidance of doubt no solar panels shall be installed without permission from the Planning Authority.

**Reason** - as no details have been provided and due to the proximity of the site to the airport solar panels would not be permitted.

## Informatives

### **Highlands and Islands Airports Safeguarding Ltd**

#### Wildlife Hazard Management

Given the nature of the proposed development, the type of roof may be an attractant for birds. We would, therefore, draw the applicant's attention to CAA CAST Advice Note 3 – Wildlife Hazards Around Aerodromes <https://www.caa.co.uk/combined-aerodrome-safeguarding-team-cast/cast-publications/cast-advice-notes/>

#### Construction and Crane Management

Given the nature of the proposed development, it is possible that cranes or tall construction equipment may be required during construction. We would, therefore, draw the applicant's attention to the requirement, within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane near an aerodrome. This is explained further in CAA CAST Advice Note 4 – Cranes and Other Construction Issues <https://www.caa.co.uk/combined-aerodrome-safeguarding-team-cast/cast-publications/cast-advice-notes/>

#### Control of Lighting

The development is close to the aerodrome and/or aircraft taking off from or landing at the aerodrome. We would, therefore, draw the applicant's attention to the following CAA CAST Advice Note 2 – Lighting Near Aerodromes <https://www.caa.co.uk/combined-aerodrome-safeguarding-team-cast/cast-publications/cast-advice-notes/>.

Your attention is drawn to the Air Navigation Order 2016, Article 224, which states that, "A person shall not exhibit in the United Kingdom any light which:

- a by reason of its glare is liable to endanger aircraft taking off or landing at an aerodrome; or

- b by reason of its liability to be mistaken for an aeronautical ground light is liable to endanger aircraft." The Order also grants the Civil Aviation Authority power to serve notice to extinguish or screen any such light which may endanger aircraft.

### **Traffic and Transport**

Any damage caused to the existing adopted footway or carriageway ex adverso the site as a result of development work must be made good by the applicant at their expense. Where damage is extensive resurfacing/reconstruction will be necessary. All related works must be to Dundee City Council standards and specifications.

### **Advertisement Consent**

You are advised that a separate application for Advertisement Consent is required for any signage, advertising, or logos to be affixed to or adjacent to the building. Any signage denoted on the approved plans does not give permission for any signage.

# Erection of Modular Buildings and Associated Works (Retrospective)

## KEY INFORMATION

**Ward:** Coldside

**Address:**

North End Football Club  
Fairmuir Street  
Dundee DD3 8HU

**Applicant:**

Mr Bruce Harper  
North End Football Club

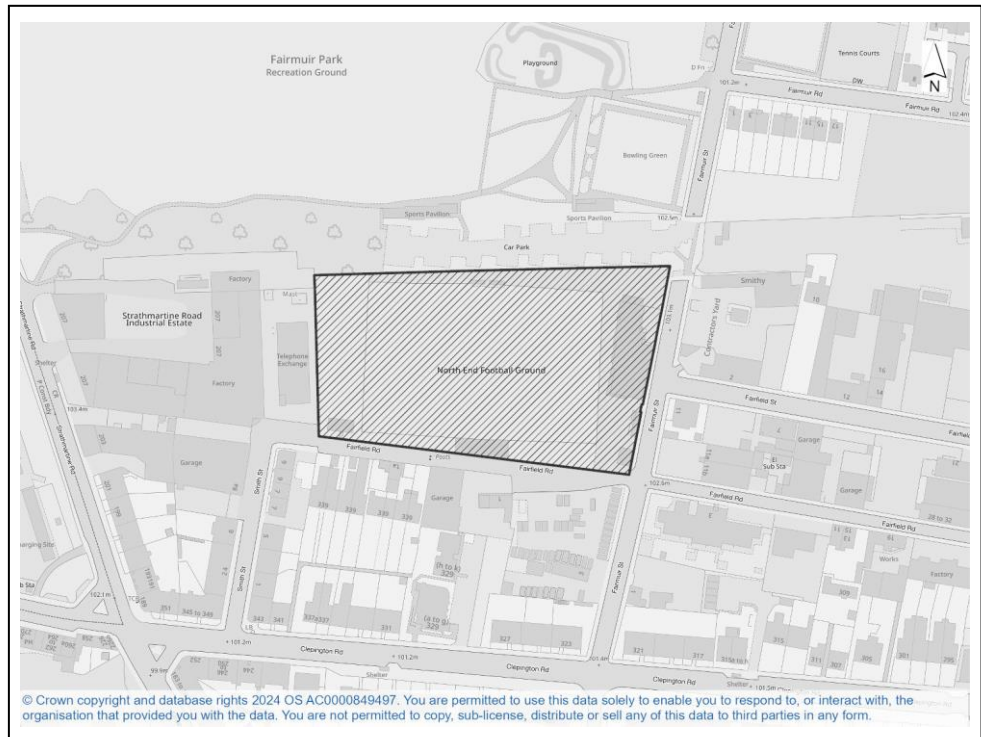
**Agent:**

Edmund Egan E Egan  
Architects And Surveyors Ltd

**Registered:** 3 June 2024

**Report by Head of Planning  
& Economic Development**

**Contact:** Edward Bean



## SUMMARY OF REPORT

- Planning permission is sought retrospectively for the erection of several modular buildings and associated works at North End Football Club. The use of the buildings is for community engagement including dance classes and meeting space, and hospitality. It is intended that the hours of operation would be Friday, Saturday and Sunday from 11:00 hours to midnight.
- The application is being considered retrospectively as the modular buildings have already been installed and are in use.
- The application site is located within an area designated as Open Space (Fairmuir Park) and within a Suburban area as per the Dundee Local Development Plan 2019.
- The application is in accordance with the Development Plan.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. One letter of objection has been received.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee, as within one month of the publication of the appropriate weekly list, an Elected Member requested in writing that it be submitted to the Planning Committee.
- More details can be found at: <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=SEI6S3GCKYH00>

## RECOMMENDATION

The proposal is in accordance with the Development Plan. It is therefore recommended that planning permission be APPROVED subject to conditions.

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## 1 DESCRIPTION OF PROPOSAL

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- 1.1 The application is for the erection of several modular buildings and an external seating area to be used for community engagement including dance classes and meeting space, and hospitality.
- 1.2 The modular buildings and seating area are all located in the south-east corner of North End Park football ground, adjacent to the south of the existing club house and behind the brick and block boundary walls.
- 1.3 The proposal includes five prefabricated units, comprising a function suite, bar, toilets, store/kitchen and food counter. The units are linked together with corridors, except for one smaller unit which sits alone. An external seating area comprising an area of wooden decking with a balustrade has also been installed adjacent to the west and north of the group of units.
- 1.4 The units have a total internal floor space of 172 square metres, with a maximum height of 2.98 metres.
- 1.5 The units are of a typical prefabricated style, with flat roofs and windows and/or doors in most elevations. The buildings sit on concrete columns.
- 1.6 Access to the site is via the existing site entrance on the south boundary of the application site.
- 1.7 The applicant has submitted the following in support of the application:
  - Site Location Plan
  - Site Layout Plan
  - Elevations Plans
  - Cover Letter



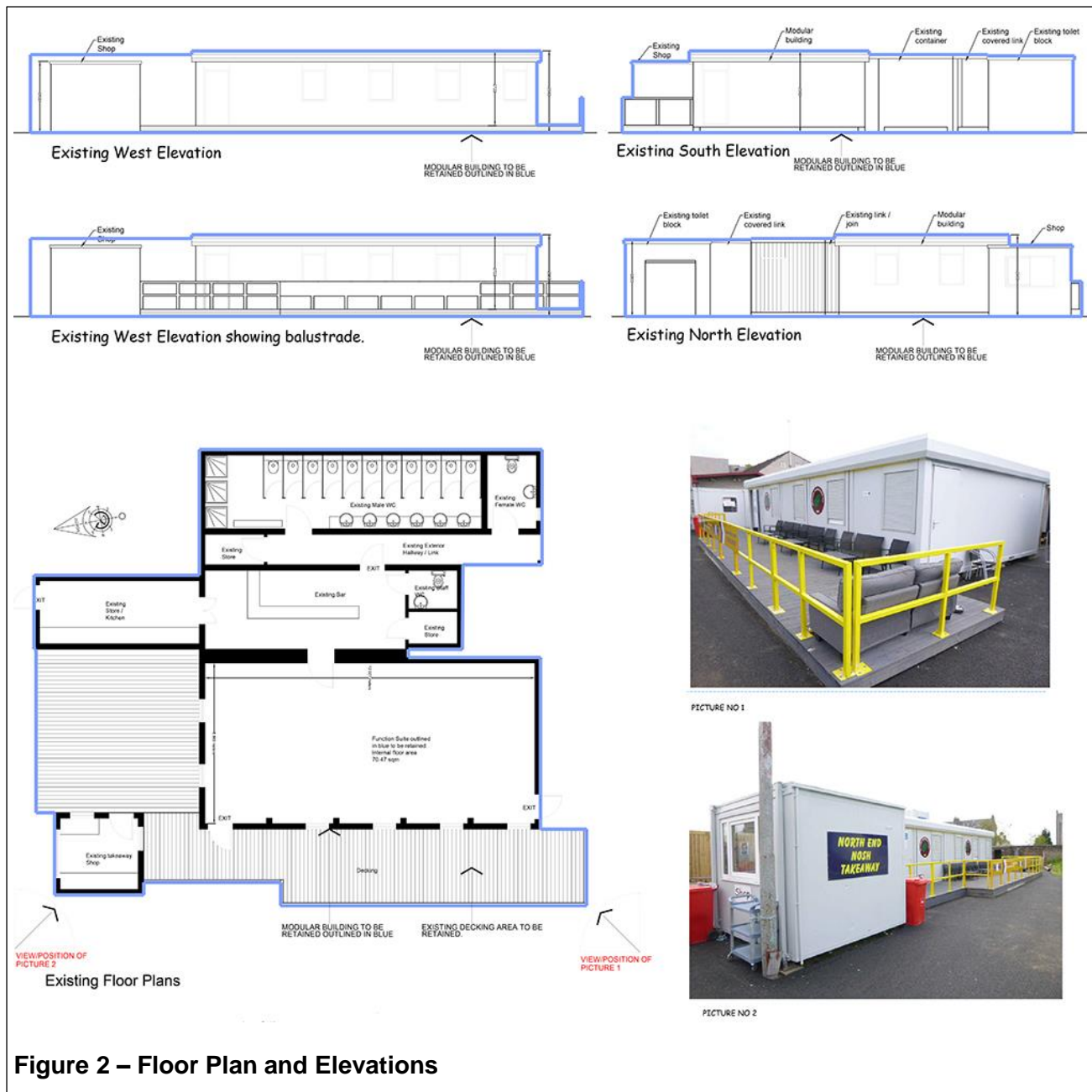


Figure 2 – Floor Plan and Elevations

## 2 SITE DESCRIPTION

- 2.1 The application site is North End Football Club, located off Fairmuir Street in Dundee.
- 2.2 Dundee North End Football Club is a Scottish junior football club which plays its home games at North End Park, with the ground having capacity for around 2,000 spectators. The football ground is bound to the east by Fairmuir Street, with a combination of residential and commercial uses beyond. Similarly, the south side of the grounds is bound by a combination

of residential and commercial uses. The west side is bound by commercial uses and the north is bound by Fairmuir Park playing fields.

- 2.3 The ground contains several buildings along the east side boundary, including a large clubhouse and social club.
- 2.4 The application site is located within an area designated as Open Space (Fairmuir Park) and within a Suburban area as per the Dundee Local Development Plan 2019.



Figure 3 – South Elevation of Modular Buildings



Figure 4 – Decking on North Side of Modular Buildings





Figure 5 – North Side of Modular Buildings



Figure 6 – Entrance to Toilet Block

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## 3 POLICY BACKGROUND

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

**NATIONAL PLANNING FRAMEWORK 4**

Policy 3: Biodiversity

Policy 14: Design, quality and place

Policy 21: Play, recreation and sport

Policy 22: Flood risk and water management

Policy 23: Health and safety

Policy 25: Community wealth building

**DUNDEE LOCAL DEVELOPMENT PLAN 2019**

Policy 1: High Quality Design and Placemaking

Policy 28: Protecting and Enhancing the Dundee Green Network

Policy 37: Sustainable Drainage Systems

Policy 39: Environmental Protection

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

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## 4 SITE HISTORY

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4.1 There is no recent planning application history relevant to the determination of this current application.

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## 5 PUBLIC PARTICIPATION

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5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.

5.2 One letter of objection was received raising the following valid material grounds:

- the buildings are being used for the consumption of alcohol;
- the use of the buildings results in noise disturbance; and
- the premises are open later than legally permitted.

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## 6 CONSULTATIONS

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6.1 **Head of Communities, Safety and Protection** – commented on the following matter:

**Noise** – advises that the location of the modular buildings and external decking are close to a residential property and that the use of the units for hospitality and community engagement will introduce patron noise and potentially music noise. It is advised that this application can be supported with the addition of conditions to protect residential amenity, comprising limitation of the hours of operation and use of the buildings and decking, together with the control of music to be inaudible within any adjacent residential property.

## 7 DETERMINING ISSUES

- 7.1 Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

### THE DEVELOPMENT PLAN

- 7.2 The development plan consists of the National Planning Framework 4 (NPF4) and the Dundee Local Development Plan 2019 (LDP). The policies relevant to the determination of this application are specified in the Policy Background section above.

### Principle of Development

- 7.3 **NPF4 Policy 21: Play, Recreation and Sport** - states that development proposals which result in the loss of outdoor sports facilities will only be supported where the proposal:

- i is ancillary to the principal use of the site as an outdoor sports facility; or
- ii involves only a minor part of the facility and would not affect its use.

- 7.4 **LDP Policy 28: Protecting and Enhancing the Dundee Green Network** - states that proposals affecting outdoor sports facilities will be safeguarded from development except where:

- 1 the proposals affect only a minor part of the site or are ancillary to the principal use of the site as an outdoor sports facility and either improve or do not affect its use and potential for sport, training and amenity use.

- 7.5 The prefabricated units are located in the south-east corner of the football ground, to the south of the existing clubhouse. The units do not encroach on any area being used for playing sports. The proposal is ancillary to the principal use of the site as an outdoor sports facility and does not affect its use and potential for sport, training and amenity use.

- 7.6 **The proposal complies with NPF Policy 21 and LDP Policy 28.**

- 7.7 **NPF4 Policy 25b: Community Wealth Building** - states that development proposals linked to community ownership and management of land will be supported.

- 7.8 The prefabricated units are to be used for community engagement and hospitality by Dundee North End Football Club and run by Dundee North End Community Trust, which is a charity organisation. The proposal is linked to the operation of the North End Football Club and community ownership and management of land.

- 7.9 **The proposal complies with NPF4 Policy 25b.**

### Design

- 7.10 **NPF4 Policy 14: Design, Quality and Place** - states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Development proposals will be supported where they are consistent with the six qualities of successful places.

- 7.11 **LDP Policy 1: High Quality Design and Placemaking** - states that all development proposals should follow a design-led approach to sustainable, high quality placemaking. 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.

- 7.12 The prefabricated units and decking are not readily visible from any public place due to their position within the boundary of the football club, which is bound along the east and south sides by a high brick and block wall. The finishes and design of the prefabricated units are acceptable in the context of the intended use, and the other buildings within the application site. The units and decking are of a scale which is appropriate for their intended use and would have no significant detrimental impact on the character or setting of the application site or surrounding area. The proposal is a sufficient distance away from any existing residential properties to ensure there are no overshadowing, overlooking or detrimental physical impacts.
- 7.13 The proposal is of a design and form which has no detrimental impact on the character or amenity of the locality.
- 7.14 **The proposal is in accordance with Policy 14 of NPF4, and Policy 1 of the Dundee LDP.**

#### **Biodiversity**

- 7.15 **NPF4 Policy 3a: Biodiversity** - requires that development proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.
- 7.16 The application site does not currently benefit from any existing planting or trees. Nevertheless, it is recommended the implementation of measures to enhance biodiversity and landscaping such as those measures set out in the NatureScot Developing with Nature guidance are controlled by condition.
- 7.17 The proposal would have no detrimental impact on any protected species, and measures will be secured via a planning condition to improve the biodiversity of the wider site.
- 7.18 **The proposal is in accordance with Policy 3 of the National Planning Framework 4, subject to condition.**

#### **Amenity**

- 7.19 **NPF4 Policy 23e: Health and Safety** - states development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.
- 7.20 **LDP 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 close 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 the viability of existing businesses or uses.

- 7.21 The Head of Communities, Safety and Protection does not object to the application but recognises that the modular buildings and external decking are close to a residential property. The use of the units and outdoor seating area for functions, hospitality and community engagement will introduce patron noise and potentially music noise. It is advised that this application can be supported with the addition of three planning conditions to protect residential amenity, comprising limitation of the hours of operation of the units and outdoor seating area, together with the control of music to be inaudible within any adjacent residential property.
- 7.22 The applicant's agent has advised that the intended hours of operation are Friday, Saturday and Sunday between 11:00 hours and midnight.
- 7.23 It is recommended that the hours of operation of the building be restricted to those intended hours of operation only, with the use of the external seating/decking restricted to earlier closing times of 21:00 hours between September and June, and 22:00 hours in July and August.
- 7.24 With these conditions, the amenity of nearby residential properties can be protected.
- 7.25 **The proposal is in accordance with Policy 23e of NPF4 and Policy 39 of the Dundee LDP, subject to the inclusion of conditions.**

#### **Flood Risk and Drainage Impact**

- 7.26 **NPF4 Policy 22c: Flood Risk and Water Management** - states development proposals will: not increase the risk of surface water flooding to others, or itself be at risk; manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; and seek to minimise the area of impermeable surface and accessibility and is designed to be multi-functional and well-integrated into the overall proposals.
- 7.27 **LDP Policy 37: Sustainable Drainage Systems** - states that 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.
- 7.28 The area in which the development is located is not identified as being at risk of surface water flooding. No surface water drainage details have been included. There is scope for surface water to be properly managed within the site and full details regarding the proposed drainage of the development can be controlled through conditions.
- 7.29 **The proposal is in accordance with Policy 22c of NPF4 and Policy 37 of the Dundee LDP, subject to condition.**
- 7.30 **The proposal complies with the requirements of National Planning Framework 4 and the Dundee Local Development Plan 2019.**

## MATERIAL CONSIDERATIONS

### A – Representations

- 7.31 One representation was received objecting to the proposals. The representations raised the following matters:
- 7.32 **Objection** - the buildings are being used for the consumption of alcohol.
- 7.33 **Response** - the application is for buildings within a football ground to be used for community engagement and hospitality purposes. The consumption of alcohol on the premises is governed by separate legislation. It is noted that the North End Social Club operates from within the main clubhouse building immediately to the north of these buildings.
- 7.34 **Objection** - the use of the buildings results in noise disturbance.
- 7.35 **Response** - noise disturbance is discussed above in relation to Policy 23e of NPF4 and Policy 39 of the Dundee LDP where it is determined that the proposals are able to achieve a satisfactory level of amenity and be accommodated without an unsatisfactory level of disturbance to any nearby residential properties, subject to conditions.
- 7.36 **Objection** - use of the building results in anti-social behaviour outside of the premises.
- 7.37 **Response** - anti-social behaviour is not a material consideration in the determination of this application.
- 7.38 **Objection** - the premises are open later than legally permitted.
- 7.39 **Response** - opening hours are discussed above in relation to Policy 23e of NPF4 and Policy 39 of the LDP where it is determined that the proposals can achieve a satisfactory level of amenity and be accommodated without an unsatisfactory level of disturbance to any nearby residential properties, subject to conditions including the restriction of the hours of operation. Enforcement of alcohol licensing is separate from the planning system.
- 7.40 The matters raised in the representation are not considered to be of sufficient weight to justify the refusal of planning permission.
- 7.41 **It is concluded that there are no material considerations of sufficient weight which would justify refusal of planning permission.**

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## 8 CONCLUSION

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- 8.1 The application complies with the requirements of the Development Plan. It is therefore recommended that planning permission be granted subject to conditions.

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## 9 RECOMMENDATION

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- 9.1 It is recommended that planning permission be GRANTED subject to the following conditions:
- 1 **Condition** - music shall be so controlled as to be inaudible within any adjacent residential property.

**Reason** – in the interests of nearby residential amenity.

- 2 **Condition** - the buildings hereby permitted shall only be used on Friday, Saturday and Sunday between 11:00 hours and 00:00 hours and at no other time.

**Reason** – in the interests of nearby residential amenity.

- 3 **Condition** - the external seating/decking area hereby permitted shall only be used between the following hours and at no other time:

- September to June – from 11:00 hours Friday and Saturday and 12:30 hours on Sundays: until 21:00 hours; and
- July and August – from 11:00 hours Friday and Saturday and 12:30 on Sundays: until 22:00 hours.

At no time shall amplified music or vocals be provided/performed within the external seating/decking area.

**Reason** – in the interests of nearby residential amenity.

- 4 **Condition** – the buildings hereby permitted shall only be used for purposes ancillary to the football club use unless otherwise permitted in writing by the Planning Authority.

**Reason** – in order to retain full control over the development and to prevent the creation of separate uses.

- 5 **Condition** - within three months of this grant of consent, a detailed surface water drainage/SUDS design including drawings, and where appropriate, calculations, full modelling, simulation results, Design Risk Assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in section 26.7.1 of the CIRIA SUDS Manual (C753), shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out within six months of this grant of consent.

**Reason** – to ensure the surface water from the buildings is properly managed in the interests of flood protection.

- 6 **Condition** - within three months of this grant of consent, a scheme of features or measures to enhance biodiversity, such as those measures set out in the NatureScot Developing with Nature guidance, shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall thereafter be carried out within six months of this grant of consent, and then retained and maintained for their designed purpose in accordance with the approved scheme.

**Reason** – to ensure that a satisfactory biodiversity enhancement scheme is proposed and implemented, increasing biodiversity within the site.

# Modification to Clause 3 of S75 Planning Obligation to Permit One Food and Drink Concession/Franchise Unit Within supermarket (Panning Ref 99/24269/D)

## KEY INFORMATION

**Ward:** The Ferry

**Address:**

1 Tom Johnston Road  
West Pitkerro Industrial Estate  
Dundee  
DD4 8XD

**Applicant:**

Sainsbury's Supermarkets Ltd  
33 Holborn  
London

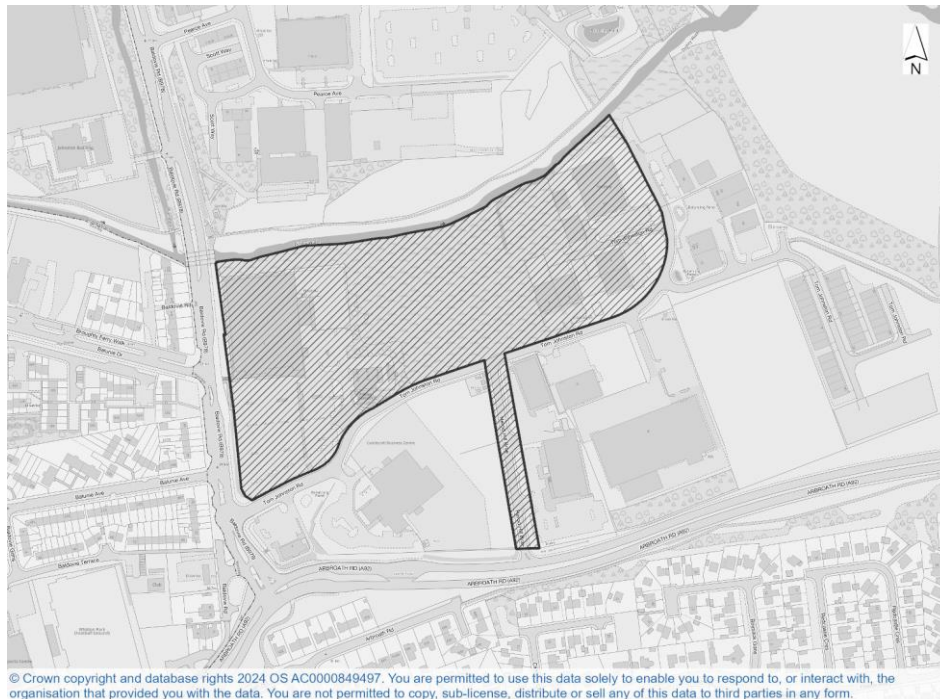
**Agent:**

Alder King Planning  
Consultants

**Validated:** 9 August 2024

**Report by Head of Planning  
& Economic Development**

**Contact:** Laura Stewart



## SUMMARY OF REPORT

- The application is for the modification of a S75 planning obligation to allow a third party to operate a food and drink/café use within the former Sainsbury's café which is currently vacant.
- The current planning obligation does not permit concession or franchise units to be located within the foodstore.
- The proposal satisfies the requirements of Circular 3/2012: Planning Obligations and Good Neighbour Agreements in terms of the modification of Planning Obligations.
- The statutory notification process was undertaken, and no letters of objection or letters of support have been received.
- In accordance with Dundee City Council's scheme of delegation, as the application is to modify a planning obligation, it is required to be determined by the Planning Committee.
- More details can be found at: <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?keyVal=SI3PSFGC0CU00&activeTab=summary>

## RECOMMENDATION

It is recommended that this application be **APPROVED** and the S75 Planning Obligation shall have effect subject to the modifications specified in this application.



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## 1 DESCRIPTION OF PROPOSAL

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- 1.1 The proposal relates to planning permission 99/24269/D which was for the erection of a mixed-use development including industrial units, retail food store (with instore coffee shop), fast food restaurant and petrol filling station.
- 1.2 A Section 75 Agreement was entered into between:
- 1 Dundee City Council;
  - 2 Sainsbury Developments Limited; and
  - 3 Scottish Enterprise with the consent of
  - 4 Sainsbury's Supermarkets Limited.
- 1.3 This was signed on 31 October and the 6 and 8 of November 2000 and recorded in the General Register of Sasines for the County of Angus on 16 November 2000.
- 1.4 Clause 3 of the Agreement states:
- “No concession of franchise units shall be permitted to be located within the Foodstore or any part or parts thereof and Sainsbury’s and SE are and shall be expressly prohibited from granting or entering into any such concessionary or franchise agreements with third parties in respect of the Foodstore or any part or parts thereof or any Lease, Sub-lease or any other Agreement with any third party which would permit any party other than the sole operator of the Foodstore to trade from any part or parts of the Foodstore.”*
- 1.5 When the current application was submitted, it sought to subdivide the café into one food and drink concessionary unit and one small retail unit. However, the retail unit has since been omitted from the proposed modification.
- 1.6 The applicant proposes to amend Clause 3 to:
- “No more than 1no concession or franchise unit shall be permitted to be located within the Foodstore, or any part or parts thereof and Sainsbury’s shall be expressly prohibited from granting or entering into any such concessionary or franchise agreements with more than one third party in respect of the Foodstore or any part or parts thereof or any Lease, Sub-lease or any other Agreement with more than one third party which would permit any party other than the sole operator of the Foodstore and one concession operator to trade from any part or parts of the Foodstore. Any concession or franchise operator shall be limited to the provision of a Coffee Shop/Café (selling food, drinks and ancillary items). The total internal floor area of the franchise/concession area shall not exceed 251sqm.”*
- 1.7 The submission specifies that the proposal is to allow the existing cafe to be operated by Starbucks. However, the approval of the modification would allow any third-party food and drink business to operate a coffee shop/café within the foodstore.
- 1.8 The applicant has submitted the following in support of the application:
- Supporting Statement (Cover Letter)
  - Section 75 Legal Agreement



Figure 2 – General Layout Plan

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## 2 SITE DESCRIPTION

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- 2.1 The site comprises a large site at Tom Johnston Road containing the Sainsbury's food store and petrol filling station along with the industrial units and vacant land to the north of Tom Johnston Road. The food store contains a vacant café/restaurant unit that was previously operated by Sainsbury's; this closed in 2022. That unit has a floor area of 256m<sup>2</sup>.
- 2.2 The area surrounding the site includes industrial, storage, and distribution uses at West Pitkerro Industrial Estate. A fast-food drive-thru and, more recently, a new supermarket have opened nearby. The site is within walking distance to Douglas and the northern extent of Broughty Ferry around Claypotts to the southern side of the Arbroath Road.



Figure 3 – Food Store

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### 3 POLICY BACKGROUND

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

**NATIONAL PLANNING FRAMEWORK 4**

Policy 27: City, Town, Local And Commercial Centres

**DUNDEE LOCAL DEVELOPMENT PLAN 2019**

Policy 21: Town Centre First Principle

Policy 24: Goods Range and Unit Size Restrictions

**SCOTTISH PLANNING ADVICE NOTES/CIRCULARS**

Circular 3/2012: Planning Obligations and Good Neighbour Agreements

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

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### 4 SITE HISTORY

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- 4.1 Planning permission (ref: 99/023864/D) for Outline Consent For Erection Of Mixed-use Development Including Industrial Units, Retail Food Store (With Instore Coffee Shop), Fast Food Restaurant, Petrol Filling Station was approved on 26 November 2000.
- 4.2 Planning permission (ref: 0025016/D) for Approval of Reserved Matters Relating To Outline Planning Permission D24269 For The Erection Of Mixed-Use Development Including Industrial Units, Retail Foodstore (With Instore) was approved on 28 March 2001.
- 4.3 Planning permission (ref: 01/30016/FUL) for Variation of Condition 2 of Planning Consent D24269 to Provide For Net Sales Area of 3,902m<sup>2</sup> and Gross Floor Area of 6,448m<sup>2</sup> was approved on 9 July 2001.
- 4.4 Advertisement Consent (ref:04/00886/ADV) for Erection Of Signage was approved on 4 November 2004.
- 4.5 Planning permission (ref: 08/00155/FUL) for Relocation Of Entrance Lobby And Reconfiguration Of Car Parking Layout was approved on 1 April 2008.
- 4.6 Advertisement Consent (ref: 10/00644/ADV) for Erection of Free-Standing Illuminated Advert Unit was approved on 19 November 2010.
- 4.7 Modification of planning obligation (ref: 12/00296/MDPO) to allow no less than 70% of the net sales floor area of the retail food store to be allocated for the display and sale of food and other convenience goods was approved on 13 August 2012.
- 4.8 Modification of planning obligation (ref: 12/00295/MDPO) to allow no less than 80% of the net sales floor area of the retail food stores to be allocated for the display and sale of food and other convenience goods was approved on 13 August 2012.
- 4.9 Planning permission (ref: 12/00162/FULL) for the Installation Of Escape Doors, GOL Loading Bay Door, Roller Shutter And GOL Canopy On Superstore Building, Car Park Reconfiguration And Erection Of 17 Trolley Shelters was approved on 30 April 2012.
- 4.10 Advertisement Consent (ref: 12/00202/ADV) was approved on 21 May 2012.

- 4.11 Advertisement Consent (ref: 12/00176/ADV) was approved 3 May 2012.
- 4.12 Planning permission (ref: 15/00512/FULL) for Erection Of A Canopy To Provide A Covered Area For The Operation Of Existing "Goods Online", within foodstore service yard was approved on 8 September 2015.
- 4.13 Modification of planning obligation (ref: 14/00277/MDPO) to state "not less than 70% of the net sales floor area shall be allocated to the display and sale of food and other convenience goods" was refused then allowed on Appeal by the DPEA on 18.12.2014.
- 4.14 Planning permission (ref: 17/00578/FULL) for Erection of Single Storey Building For Use As A Goods Online Distribution Hub, associated changes to the service yard and car park and landscape measures including new screen fence and gates to service yard and flooding mitigation measures was approved on 15 November 2017.
- 4.15 Application under S42 (ref 18/00031/FULL) for variation of condition 2 of 08/00155/FUL to allow a gross floor area increase of 270m<sup>2</sup> for an ancillary Goods On Line facility within the service area (Proposed Gross Floor Area 6,759m<sup>2</sup> with the Net Sales Area to remain at 3902m<sup>2</sup>) was approved on 29 March 2018
- 4.16 Advertisement Consent (ref 17/00691/ADV) for Advertisement of the following types: Various including Fascia Sign, Canopy, Projecting Sign, Advance Sign, Freestanding totem signs was approved on 2 February 2018.

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## 5 PUBLIC PARTICIPATION

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- 5.1 This is not a planning application and does not require any neighbour notification.
- 5.2 In accordance with Regulation 5 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 all parties with an interest in the Section 75 Legal Agreement have been notified of the application.
- 5.3 No objections or representations have been received from any party.

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## 6 CONSULTATIONS

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- 6.1 There were no consultations undertaken – this is in accordance with the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010.

## 7 DETERMINING ISSUES

### APPLICANT'S CASE

- 7.1 The applicant submits that the reason for applying to modify the planning obligation is to allow a third-party operator (identified as Starbucks) to operate a coffee shop/cafe within the foodstore with a floor area not exceeding 251 square metres. Although any part of the floorspace within the foodstore could be used for this purpose, it is likely that the coffee shop/café would operate from within the vacant instore café which has been unoccupied since 2022.

- 7.2 The application initially sought to accommodate a third-party food and drink concessionary use and a third-party retail use. However, since the application was submitted the applicant has advised that they are seeking consideration for a third-party coffee shop/café use only.
- 7.3 The supporting statement highlights that it is now not uncommon to have other concessions within supermarkets such as key cutting, dry-cleaning, barbers, opticians, photoshops etc.
- 7.4 It is submitted that NPF4 policy 27 – City, town, local and commercial centres encourage development in designated centres through the town centre first approach to help centres adapt positively to long term change.
- 7.5 In regard to the LDP it is submitted that policy 21 – Town Centres First Principle requires that all new expanded uses that will generate significant footfall should be located in the City Centre or a District Centre. Proposals for other such uses in other locations will only be acceptable where it can be demonstrated that they pass the sequential test; do not have a significant adverse impact of the vitality and viability of a centre; and address a deficiency in provision that cannot be met within or on the edge of an allocated centre.
- 7.6 In regard to LDP policy 24 – Goods Range and Unit Size Restriction this states that 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.
- 7.7 It is submitted that the operation of the café by a third-party would serve the same function as traditional supermarket branded coffee shops/café such that they provide an in-store beverage facility for supermarket shoppers. They are unlikely to attract a significant number of customers to the facility who are not already using the supermarket or nearby facilities.
- 7.8 A town-centre health check of Broughty Ferry was carried out by the applicant which highlights that healthy levels of footfall were observed and that there were very few vacancies within the central shopping area. Twelve dedicated cafes/coffee shops were recorded in the district centre alongside wider food and beverage offerings and takeaway/sit in food and drink facilities such as Subway.
- 7.9 The applicant considers that there is a strong café culture in Broughty Ferry, and that the replacement of the coffee shop facility at the out of centre Sainsbury's, run by a different operator would have no material impact on the food and beverage sector in Broughty Ferry as it is strong and plentiful.
- 7.10 It is submitted that the provision of a sequential test as required under policy 21 of the LDP would serve no meaningful purpose as the floor space for the coffee shop is already an established use class and would not prevent the operation of a coffee shop.
- 7.11 The supporting statement also notes that there is no evidence to suggest that a Starbucks branded coffee shop/café would be a greater attraction due to brand allegiance and that the former café would have been popular for different reasons such as lower prices. It is the view of the applicant that the proposal would have no more material impact on the town centre than exists at present and there would be no significant adverse impact on the vitality and viability of a centre as stated within LDP Policy 21.
- 7.12 The supporting statement also points out that the legal agreement is 24 years old and was created at a time when the retail climate was different. At that time there was no out of town supermarket in existence and it was appropriate that there was a form of protection for Broughty Ferry which has adapted to the effects of the supermarket in that time.

**OBSERVATIONS**

7.13 Proposals to discharge, modify or enter into Planning Obligations should comply with the following five tests in Circular 3/2012: Planning Obligations and Good Neighbour Agreements - necessity, planning purpose, relationship to the development, scale and kind, and reasonableness.

7.14 The Council's assessment of this application against the tests required by Circular 3/2012 is as follows:

**A – NECESSITY**

7.15 The Circular is written for the benefit of planning authorities that are considering whether, in order for planning permission to be granted, a planning obligation is required. However, this is an application to modify an existing planning obligation and there is no option to impose a planning condition. Accordingly, a planning obligation remains necessary in this regard in order to ensure that this restriction will bind successors in title and therefore satisfies this test.

**B – PLANNING PURPOSE**

7.16 The Obligation should serve a planning purpose. The purpose of the obligation was to restrict third party franchises from utilising floor space within the supermarket as approved by 99/24269/D to ensure that additional uses were not introduced out with Broughty Ferry District Centre to protect its vitality and viability in perpetuity.

7.17 The proposed modification to allow for the introduction of a third-party food and drink concession is unlikely to have any significant impact upon Broughty Ferry District Centre. As highlighted within the applicant's supporting statement there are town centres first principles to be considered when assessing the proposal. There are a number of existing coffee shops in Broughty Ferry, the unit already has the same use as what is proposed through the modification, and it is likely that the majority of users would already be visiting the supermarket footfall generating use.

7.18 The 2023 Review of Retailing in Dundee recognises Broughty Ferry as an attractive, busy shopping centre with a good mix of occupied floorspace. 21% is convenience, 38% comparison and 33% non-retail services. It recognised that in 2023 the vacancy rate was low at 9%. 14 businesses were known to have closed and 10 new ones opened. Since the 2023 study there have been planning applications and advertisement consents submitted in vacant units which suggests that new business is still looking to locate in Broughty Ferry. It is concluded that an important strength of Broughty Ferry is the high quality of the independent retailers and that the range, choice and quality of retailing remains good.

7.19 Given the low vacancy rate and the fact that business within Broughty Ferry is predominantly occupied by small, local independent businesses, it is unlikely that introducing a food and drink franchise, into an existing café restaurant which is also an existing footfall generating use will have an impact on the district centre. The proposal is therefore in accordance with LDP Policies 21 and 24 and NPF4 policy 27.

7.20 The modifications which are proposed to the obligation serve a planning purpose for the reasons above and would satisfy this test.



### C – RELATIONSHIP TO THE DEVELOPMENT

- 7.21 The Circular requires that Obligations should "relate directly to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area."
- 7.22 The main aim of the restriction of third-party franchise/operators imposed within the planning obligation was to protect the vitality and viability of Broughty Ferry District Centre which is the closest shopping area to the site.
- 7.23 As assessed above, it is not considered that there would be a damaging diversion of expenditure away from the district centre. It will retain an existing food and drink use and should not affect the offering of small and local retailers within Broughty Ferry. It will also create new hospitality sector jobs accessible to nearby communities which includes Douglas alongside Broughty Ferry. As there will be no wider detrimental effect arising from the proposed modification, this test would be satisfied.

### D – SCALE AND KIND

- 7.24 The scale and kind test require obligations to be proportionate to the scale of the development and to address any objectionable implications of the development itself.
- 7.25 A café/restaurant use is existing. As described above there will be no significant implications arising as a result of allowing a third party to operate that same use, on the same floor area (albeit the modification sought has a floor area which is 4m<sup>2</sup> less than the plans show) within the supermarket. Permitting the modification would not prejudice the vitality and viability of the nearby district centre.
- 7.26 The proposed modification is related in scale and kind to the development and meets this test.

### E - REASONABLENESS

- 7.27 The Circular requires that the obligation should be reasonable in the particular circumstances of the case. The annex to Circular 1/2010 confirms that external factors affecting the development need to be taken into account when judging whether an obligation remains reasonable.
- 7.28 As outlined previously in the report, the purpose of this clause of the planning obligation is in order to protect the vitality and viability of Broughty Ferry District Centre.
- 7.29 The proposed modification to allow a continued food and drink use, albeit operated by a third party would be reasonable and meets this test.
- 7.30 **It is concluded that the proposed modification complies with the five tests in Circular 3/2012: Planning Obligations and Good Neighbour Agreements.**

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## 8 CONCLUSION

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- 8.1 Taking all of the issues considered above, the Council's stated aims of maintaining the vitality and viability of the district centre would be served by approval of this application and that the planning obligation should continue to have effect with the modification proposed.

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## **9 RECOMMENDATION**

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- 9.1 It is recommended that this application should be APPROVED and the planning obligation shall have effect subject to the modifications specified in the application.