

KEY INFORMATION

Ward Lochee

Proposal

Erection of foodstore, café and petrol filling station with associated car parking, landscaping and infrastructure, including access roads

Address

Former NCR (Scotland) Ltd
Kingsway West
Dundee

Applicant

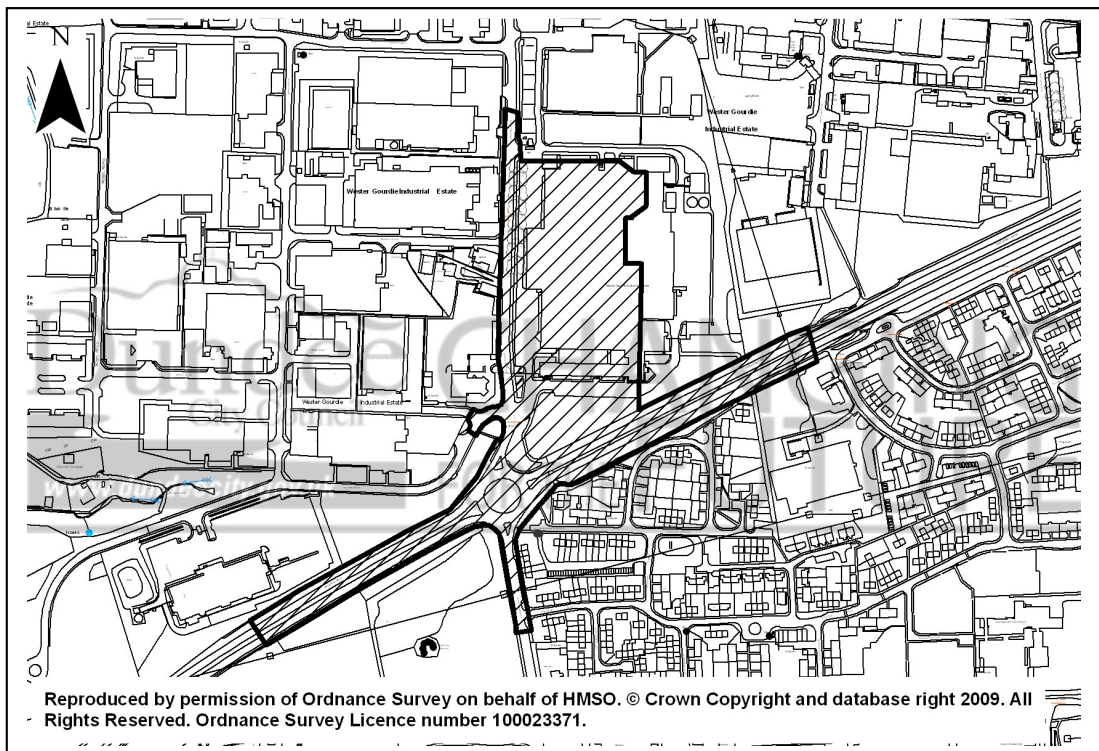
Asda Stores Ltd & MacDonald
Estates Group Plc
Asda House
South Bank
Great Wilson Street
Leeds LS11 5AD

Agent

Hargest & Wallace Planning
Ltd
22 Manor Place
Edinburgh EH3 7DS

Registered 21 July 2009

Case Officer Mike Galloway



Proposed Foodstore on Former NCR Factory Site

The erection of a foodstore, café and petrol filling station with associated car parking is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

The proposal is considered to be contrary to the development plan. There are material considerations of sufficient weight to justify support of the proposed development. The application is therefore recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- The application seeks planning permission in principle to erect a food store, petrol filling station and associated facilities on part of the site of the former NCR complex located at the Kingsway West/Myrekirk Road junction. The proposals also involve alterations to the adjacent Trunk Road roundabout.
- The proposal raises a number of Structure Plan and Local Plan policy issues. Of particular relevance to the determination of this application are the policies that relate to Employment Land and the Location of New Retail Developments.
- Eight objections to the application have been received with the main concerns expressed being that the proposals are contrary to development plan policies, the proposal will result in transportation and access problems, the development will adversely impact on Lochee District Centre and that the development will result in the closure of an existing food store in Kirkton.
- The development has attracted 5 letters of support principally from local businesses and local community associations. Support in these letters is offered on the basis that the proposals will result in increased employment opportunities, attract new business, improve access arrangements to the site and the wider area and will increase the choice of local shopping facilities.
- The proposals are not consistent with the requirements of certain relevant policies of the development plan. It is considered that there are other material considerations of such a weight to justify a departure from the development plan and approve this application.

DESCRIPTION OF PROPOSAL

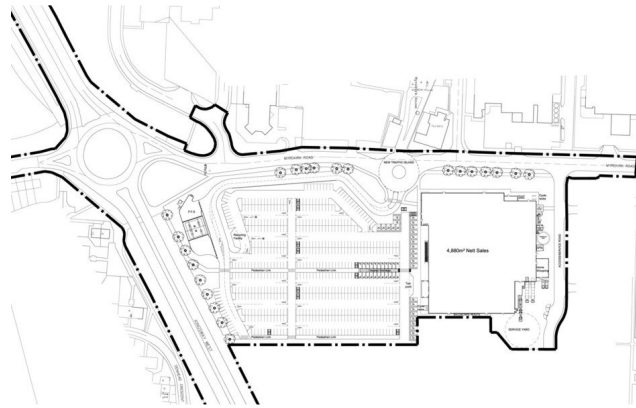
The application under consideration is for planning permission in principle to develop a foodstore, cafe and petrol filling station, with associated car parking, landscaping and infrastructure (including access roads) at the former NCR site located to the north east of the junction of Myrekirk Road and A90 (T) Kingsway West.

The proposals were submitted as an outline planning application to this Council on 22 July 2009. Applications for outline planning permission made before 3 August 2009 but the decision to grant/refuse is issued on or after that date must be treated as an application for planning permission in principle in accordance with the new provisions in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. While it has been concluded that the application is contrary to certain aspects of the Employment Policies and Retailing Policies of the Development Plan, the proposal is supported by an overwhelming majority of the other relevant policies in the Plan. Furthermore, the proposal does not undermine the core land use and environmental strategies of the Development Plan or the viability of Dundee as a regional centre. In this respect the application is not considered to be 'significantly' contrary to the Development Plan.

The application site measures approximately 6.68 ha (16.5 acres). The indicative layout plans and design drawings that accompany the application advises of the following:

- demolition of the existing building and the provision of a store of 4,880m² net floor area, 8,295m² gross internal floor area;
- car parking (approximately 586) located to the south of the proposed store on the Kingsway West frontage;
- a petrol filling station in the south west corner of the site; and

- the principal access into the site being taken from Myrekirk Road to the west at a location approximately 200 metres north of Myrekirk Road/Kingsway West junction. Service vehicles would access the site from a



second junction with Myrekirk Road located in the north west corner of the application site.

The proposals also involve improvements to the Myrekirk Road/Kingsway West junction including altering the size and shape of the roundabout and the introduction of traffic lights. Also proposed are the up-grading of the pedestrian underpass across Kingsway West, the provision of footpaths and cycle ways and improvements to adjacent roadways.

A significant proportion of the former NCR site is outwith the application site. The indicative masterplan submitted to accompany the application indicates that vehicular access to this land can be achieved using the second of the two access roads provided in the application. The applicants have advised that there are no proposals for specific uses within the remainder of the former NCR site at this current time.

The submitted proposals also include

indicative landscape plans that advise of the retention of a number of the cherry trees that currently bound the south and west edges of the site. The planting of new trees, shrubs, hedging and grass within the site is also proposed.

SITE DESCRIPTION

The site is located on the edge of Wester Gourdie Industrial Estate on the north east side of the junction of Myrekirk Road and Kingsway West. The application site forms part of a larger industrial site that accommodated the former NCR factory complex.

The existing building accommodates a one/two storey south facing brick frontage used for administration purposes. To the rear of this is the former production/manufacturing area of the complex. The main access into the site is from the mini roundabout on Myrekirk Road to the west that leads to the car parking area located on the south side of the building. The service access is located on the north side of the site.

A landscape area is evident on the Kingsway West frontage and protected cherry trees are located on the south and west boundaries of the site.

The surrounding area is predominantly industrial in character with the exception of several uses including car dealerships, a children's nursery and a residential property. An established residential area (Charleston) is located to the south of the site on the south side of Kingsway West.

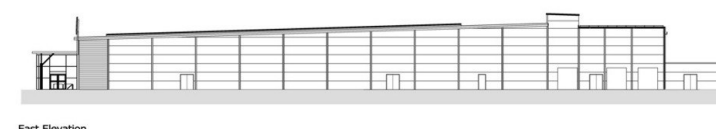
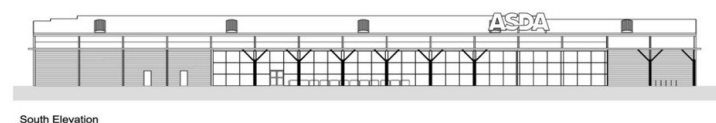
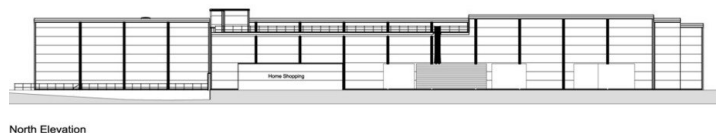
POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

- 1 Employment Policy 1: Employment Land Supply.

This policy makes provision for an effective 5 year supply of employment land and indicates a requirement for maintaining at least 110



ha of land for employment use within the city.

2 Employment Policy 2: Existing Employment Areas.

This policy indicates that land for employment use will be safeguarded and promoted at a range of locations throughout the city including Kingsway West.

3 Town Centres and Retailing Policy 4: Out of Centre Retailing.

This policy states that in keeping with the sequential approach to site selection for new retail developments, proposals for new or expanded out of centre retail developments in excess of 1,000m² will only be acceptable where it can be established that:

- no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centres;
- individually or cumulatively it would not prejudice the vitality and viability of existing city, town or district centres;
- the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of the above centres;
- the site is readily accessible by modes of transport other than the car; and
- the proposal is consistent with other Structure Plan policies.

4 Transport Policy 1: Strategic Transport Links.

This policy states that the Councils will work in partnership with other organisations to maintain and improve strategic transport infrastructure within the Structure Plan area.

5 Transport Policy 4: Development Location.

This policy requires that new development should, as a minimum, require to demonstrate that they satisfy the following criteria:

- provide safe, convenient and attractive facilities for pedestrian, cycle and public transport access;
- provide or use walking and cycle routes which are or can be linked into established and planned networks;
- are accessible to or can be made accessible to the existing or proposed public transport networks; and
- are located where local road network capacity is available.

Development proposals generating significant traffic must be supported by Transport Assessments and Travel Plans where necessary and Travel Plans will be implemented through appropriate planning conditions and/or other agreements.

6 Environmental Resources Policy 4: Flooding and Development.

This policy limits development in areas of risk from flooding and requires new development to incorporate SUDS for surface water disposal.

Dundee Local Plan 2005

The following policies are of relevance:

Policy 21: Economic Development Land Supply - in accordance with the Dundee and Angus Structure Plan, the Council will maintain a supply of at least 110 hectares serviceable, effective and marketable land for economic development. The supply is to be safeguarded for uses within Classes 4 "Business", 5 "General Industry" and 6 "Storage and Distribution".

Policy 24: Principal Economic Development Areas - Principal Economic Development Areas are of citywide significance and as such will be safeguarded for industrial and business use. Uses outwith Classes 4 "Business", 5 "General Industry" and 6 "Storage and Distribution" will be resisted. Exceptions where defined in Policy 27 (Ancillary Services within Economic Development Areas), will only be considered favourably where it can be demonstrated that the development will enhance the

attractiveness of the area for further industrial and business investment.

Policy 44: Petrol Filling Station Shops - proposals for the establishment within petrol filling stations of sales areas in excess of 100m² gross will be considered in relation to:

- a their impact on the viability and distribution of existing local shopping provision; and
- b their acceptability on road safety grounds.

Policy 45: Location of New Retail Developments - the City Centre and District Centres will be the locations of first choice for new or expanded retail developments not already identified in the Local Plan. Proposals for retail developments outwith these locations will only be acceptable where it can be established that:

- a no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres;
- b individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres;
- c the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres;
- d the site is readily accessible by modes of transport other than the car;
- e the proposal is consistent with other Local Plan policies.

Development proposals generating significant traffic must be supported by Transport Assessments and Travel Plans where necessary. Travel Plans will be implemented through appropriate planning and/or other agreements.

Policy 48: Accessibility Of Out Of Centre Retail Developments - proposals for major out of centre retail developments will require to incorporate measures to encourage convenient access by means other than the car. The following specific measures will be sought:

- a bus access involving weather protected stances incorporating timetable information and linked to the pedestrian route network within the site;

- b segregated, weather protected, pedestrian routes linked to the City's wider footpath network; and
- c weather protected cycle storage facilities accessed via segregated cycle routes linked to the City's wider cycle route network.

Where appropriate the provision of free home delivery services will be encouraged.

The incorporation of these measures into existing developments will also be encouraged and pursued

Policy 55: Urban Design - for all new developments the emphasis will be on design quality and the City Council will seek the creation of new public places and points of interest which incorporate architectural and landscape features and reflect and enhance historic street layouts, significant views and vistas. All development should respect the setting of listed buildings.

The City Council require the use of Design Statements for planning applications or listed building applications for new buildings or extensions to existing buildings on significant sites.

All development will, in its design and layout, be expected to contribute to an environment which is safe and accessible to all.

Policy 56: Public Art - the City Council will continue to support Public Art through the adopted Public Art Strategy and the Percent for Public Art Policy by:

- a implementing the "Percent for Public Art" policy where all new development in Dundee with construction costs of £1,000,000 or over will be required to allocate at least 1% of the construction costs for the inclusion of an art project(s) in a publicly accessible/visible place or places within their development. The implementation of the policy will be delivered through the development control process by the imposition of appropriate conditions on planning permission and the conclusion of legal agreements;
- b involving the Dundee Public Art Programme at every opportunity

in future environmental improvements and building developments;

- c encouraging and developing the role of the artist within private sector developments;
- d promoting the development of the community arts in residential areas; and
- e identifying sites through Development Briefs where public art would make a contribution to the streetscape, City image or local environment.

Policy 57: Visual Impact On Major Routes - the City Council in association with other agencies will seek to further the implementation of the major routes concept, subject to finance being available, where the objectives will be to:

- a improve the image of Dundee;
- b create a memorable image on arrival to Dundee that will have an imposing presence both day and night; and
- c improve the quality of the environment. In relation to visual amenity, highly visible primary frontages, and certainly those within 25 metres of the kerb line (depending on local circumstances) will be required to abide by the guidelines within the Ambassador Route Design Guide.

Policy 72: Trees And Urban Woodland - new developments must have regard to existing healthy mature trees, the survival and retention of which will be strongly encouraged through sensitive site layouts and both during and after construction. Where appropriate, development proposals must be accompanied by a tree planting and landscaping scheme which includes a supporting justification and sufficient map based material to document existing planting within the application site, as well as new planting and maintenance arrangements. The Council will promote Tree Preservation Orders to protect individual trees or entire planting schemes where expedient to do so.

The Council and its partners will pilot local urban woodland projects within suburban communities to provide sustainable land use treatment for

vacant or underused land. Temporary urban woodland projects will be based on a 'minimum cost, rapid impact, site recovery' approach with interpretative signage, so not to preclude future development. Public access will be discouraged within these areas. In addition, peripheral vacant sites with little or no development value will be targeted by the Council and its partners for permanent urban woodland schemes.

The Council will also support advance planting on key development sites, enhanced tree planting within Greater Camperdown Country Park and the City Parks, as well as the creation of new community forests on the urban fringe in conjunction with neighbouring authorities.

Policy 76: Flood Risk - there will be a general presumption against development in high risk areas as identified by the Council in conjunction with the Dundee Flood Appraisal Group based on a 0.5% or greater annual probability of flooding (equivalent to a 1 in 200 year flood or greater). This includes essential civil infrastructure and proposals affecting previously undeveloped land. High risk areas within the existing built up area may only be considered suitable for commercial, industrial and housing proposals that satisfy the Insurance Template where applicants can demonstrate to the satisfaction of the Council that:

- a sufficient flood defences already exist, are under construction or are planned as part of the development strategy of the Dundee and Angus Structure Plan 2002;
- b those flood defences will be maintained for the lifetime of the development and will not increase the probability of flooding elsewhere; and
- c the proposals are consistent with other policies in the Plan.

There will be a general presumption in favour of development in low to medium risk areas with a 1 in 1000 to 1 in 200 year annual probability of flooding, other than for essential civil infrastructure projects. Proposals must incorporate mitigation measures without giving rise to flooding or related problems elsewhere and without compromising policies elsewhere in the Plan. This includes

housing proposals that do not satisfy the Insurance Template. However, the provision of flood prevention or protection structures will not normally be supported.

A Flood Impact Assessment will require to be submitted to accompany all development proposals in high and medium to low risk areas

Development in little or no risk areas where the annual probability of flooding is less than 1 in 1000 will be generally supported.

Policy 79: Contaminated Land - when considering development proposals involving sites where the presence of contamination is suspected, the City Council will require applicants to:

- a submit the results of site investigations which assess the nature and extent of any contamination which may be present; and
- b where contamination is found to be present, notify the authority of the remediation measures proposed to render the site fit for its intended use including all receptors.

Appropriate conditions and/or legal agreements may be applied to ensure that such measures are implemented to the satisfaction of the Council.

Alternatives to the uses permitted by the Local Plan may be supported on contaminated sites in instances where evidence can be presented to establish that the severity of contamination is such that the site cannot be economically developed for its allocated use. In such instances the City Council will require to be satisfied that:

- clear evidence has been provided to establish the nature and extent of the contamination present;
- an economic appraisal has been provided which demonstrates that development based on the Local Plan allocation is not economically feasible due to the remediation requirement;
- justification for the proposed alternative to the Local Plan allocation is supported by economic and market appraisals which include the assessment of other potential options; and

- the proposed alternative use can be justified in relation to other policies of the Local Plan.

Policy 81: Pedestrians - all developments should consider ease and safety of pedestrian access as a priority over all other modes. In particular, the implementation of measures designed to improve pedestrian safety, including footpath/footway provision and improvements, upgrading of street lighting, provision of improved crossing points, construction of suitable traffic calming measures, and the reduction of speeds to 20mph or less in residential areas where appropriate will be encouraged. In addition, the Council will welcome proposals for facilities which will promote increased pedestrian activity on and around development locations. The establishment and use of paths and access routes for both recreation and commuting purposes is encouraged.

Policy 82: Cycling Facilities - Dundee City Council will support the provision of both on and off- road facilities for cyclists. In particular it will:

- a continue to promote and improve recreational cycling opportunities with emphasis on enhancing the existing open space network, the Green Circular, National Cycle Network and North Sea Cycle Route as opportunities arise;
- b require measures to improve and protect conditions for cyclists in the design of all new or upgraded roads;
- c support the development of strategic cycle routes, for commuting and recreational needs;
- d promote the development of green access corridors and other secondary routes linking into the main and strategic network, particularly links with schools, transport infrastructure, workplaces and leisure facilities; and
- e require the provision of appropriate cycle paths and cycle parking facilities in development proposals.

Policy 86: Road Network - Dundee City Council will:

- a promote the establishment of walking, cycling and public

transport priority measures on or adjacent to all arterial routes;

- b in conjunction with Angus Council, implement the upgrading of the A92 eastwards from Claypotts junction to improve road safety;
- c in conjunction with the Scottish Executive, promote through the development process the upgrading of the Kingsway junctions at Swallow and Myrekirk Road to assist development in the west of Dundee and bring forward improvements to the operation of the remaining trunk road network within Dundee to permit the effective movement of public transport, pedestrians and cyclists;
- d not permit development on the East and West Arterial routes where this would prejudice the potential future upgrading of these routes; and
- e implement the improvement of the North West Arterial for the benefit of public transport, pedestrians and cyclists.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

Scottish Planning Policy 2: Economic Development. SPP2 identifies the Scottish Executive's vision set out in the Framework for Economic Development in Scotland and states that the planning system should provide strong support for economic development, both new and expanding businesses, where it is consistent with other national and local policies, in particular the promotion of social justice and sustainable development. In summary the SPP2 identifies that, amongst other things, planning should:

- ensure that existing business locations are able to meet the anticipated changes in the economy and that they provide choice for a diverse range of economic development;
- secure and support the delivery of sites for economic development in sustainable locations by identifying key locations that are

highly accessible by public transport; and

- safeguard and enhance the environment, by requiring that new development is of a high design and protecting the natural and built heritage.

The SPP also notes that retailing (and other sectors) makes a significant contribution to economic development.

Scottish Planning Policy 8: Town Centre and Retailing. The guidance within SPP8 advises that when determining applications for food shopping a sequential approach should be adopted. In dealing with new major retail developments SPP8 advises that they should be initially assessed as to whether they are consistent with the development plan. Where they are not consistent with the development plan, the developer must demonstrate why an exception to policy should be made.

Scottish Planning Policy 17: Planning for Transport. This policy promotes sustainable development in appropriate locations and seeks to ensure that development is well located in terms of public transport and pedestrian and cycle routes.

Planning Advice Note 51: Planning, Environmental Protection and Regulation. The central purpose of this PAN is to support the existing policy on the role of the planning system in relation to the environmental regimes.

Planning Advice Note 75: Planning for Transport. This offers guidance on policy contained in SPP17 (Planning for Transport) above

Planning Advice Note 84: Reducing Carbon Emissions in New Development and SPP6 Renewable Energy.

Non Statutory Statements of Council Policy

The following is of relevance: Planning Advice: Air Quality and Land Use Planning (January 2007).

SUSTAINABILITY ISSUES

The proposal involves the re-use of a brownfield site located within the Wester Gourdie Industrial Estate. There are no specific sustainability policy implications arising from this application.

SITE HISTORY

There are no recent planning applications for the development of this site that are of direct relevance to the determination of this application.

PUBLIC PARTICIPATION

The applicants' agents carried out the statutory neighbour notification procedure on 21 July 2009. The proposals were advertised in the local press as development contrary/potentially contrary to Employment Policy 2, Town Centres and Retailing Policy 4 and Transport Policy 4 of the Dundee and Angus Structure Plan 2001 - 2016 and as being contrary/potentially contrary to Policy 24, Policy 45 and Policy 48 of the Dundee Local Plan 2005. The proposals were also advertised under Section 34 of the Act (bad neighbour development).

The proposals have attracted 8 objections (including Dundee Civic Trust). The main issues raised by the objectors relate to:

- the proposals are contrary to National policies, Structure Plan and Local Plan policies;
- the site should be retained for industrial purposes;
- the proposals will give rise to transportation and access problems;
- the proposals will result in an over provision of supermarkets in the west end of the city and a need for the development in qualitative and quantitative terms has not been established;
- the development will adversely impact on Lochee District Centre and the Angus rural area and such developments should be directed to the city centre or District Centre locations;
- the proposed use has no customer base on the north side of Kingsway West and will result in increased pedestrian crossing of a Trunk Road;
- the development will adversely impact on local residents by virtue of increased noise and smell;

- the proposal will result in unrestricted non food comparison goods being sold from the site when there are existing retail sites unable to do so;
- an appropriate sequential analysis of commercial centres outwith the city centre and District Centres has not been undertaken in relation to the location of the new store;
- the proposal, if approved, may result in the closure of an existing store in the Kirkton area of the city; and
- insufficient time has been allowed for third parties to fully assess the terms of the submitted Transport Assessment.

The application has also attracted 5 letters of support. The main areas of support are as follows:

- the regeneration of the site will attract new business and investment to the local area;
- the proposals will result in increased employment opportunities;
- the proposed improvements to the Myrekirk roundabout will help ease traffic congestion and remove a constraint to the future development of vacant sites in the adjacent industrial estate;
- the applicants would work with local businesses and support local communities; and
- the proposals offer a wider choice of shopping facilities in the area.

Members will already have had access to these letters/correspondence and the points raised are considered in the Observations Section of this Report.

In addition to the above, the applicants and agents undertook a Community Consultation exercise in order to seek the views of the public on the proposed development. A Public Consultation Statement and a Community Consultation Report have been submitted to accompany this application. Details of this Consultation are outlined in the 'Other Material Considerations' section of this report below.

CONSULTATIONS

Transport Scotland, Trunk Roads Network Management - the Director does not advise against the granting of permission for the proposals and has advised that certain conditions should be attached to any permission the Council may give.

The Head of the Council's Environmental Health and Trading Standards has advised as follows:

Noise

No objections to the proposed development provided that the mitigation measures identified in the submitted Noise Impact Assessment are implemented. However, EHTS have requested that, in order to safeguard the amenity of nearby householders from any potential tonal aspects of noise from fixed plant, a condition be attached to any permission granted requiring that all noise from plant shall not exceed NR35 as measured 1 metre external from the facade of the residential property.

Contaminated Land

EHTS have no objection subject to the imposition of condition restricting the commencement of development until the further investigation and risk assessment proposed in the submitted Stage 1 Desk Study and the partial Stage 2 Site Investigation Study are completed and a remediation strategy to deal with contamination at the site has been submitted to and approved in writing by the planning authority. EHTS have further requested that verification of the full implementation of the remediation strategy is submitted to and approved in writing prior to the first occupation of any unit on the site.

Air Quality

The main air quality issue identified by the Head of Environmental Health and Trading Standards is the location of the proposed access roundabout to the supermarket from Myrekirk Road. This is located outside a nursery. It has been estimated by EHTS that traffic flows outside the nursery will, as a result of the proposals increase approximately 273% almost trebling the estimated flows in this area. Consequently, EHTS are concerned that the greatest pollution impact will

be in the vicinity of some of the most vulnerable receptors.

The applicants have prepared and submitted an Air Quality Assessment to accompany their application. This was submitted prior to all the parameters to the model having been agreed between all parties, in particular the traffic figures and the junction layout. EHTS conclude that the resulting Air Quality Assessment is considered unsatisfactory and does not include any mitigation measures to reduce the pollution impact on the nursery. The applicants have been advised of this but no revised Assessment has been provided. EHTS believe that it is possible that a new air quality management area will be created as a result of the proposed development; consequently an action plan will be required to be developed to attempt to reduce pollution levels in this area.

EHTS consider that one resolution to this would be to relocate the access to the proposed development. In this respect, EHTS have suggested that certain conditions be attached to any permission granted that require, prior to the commencement of development, specific actions be undertaken which include a minimum of 6 months monitoring of fine particulate matter (PM10) in the vicinity of the site, the submission of a revised Air Quality Assessment and submission of amended access details.

OBSERVATIONS

Statutory Requirements

Section 25 of the Act provides that an application for planning permission (other than a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

The application under consideration is for planning permission in principle to develop a food store, cafe and petrol filling station, associated car parking, landscaping and infrastructure (including access roads) at the former NCR site located to the north east of the junction of Myrekirk Road and

A90 (T) Kingsway West. The application site measures approximately 6.68 ha (16.5 acres).

The proposals also involve improvements to the Myrekirk Road/Kingsway West junction including altering the size and shape of the roundabout and the introduction of traffic lights. Also proposed are the up-grading of the pedestrian underpass across Kingsway West, the provision of footpaths and cycle ways and improvements to adjacent roadways.

A significant proportion of the NCR site is located outwith the application site. The indicative masterplan submitted with the application indicates that vehicular access to this land can be achieved using the second of the two access roads identified in the planning application. The applicants advise that there are no proposals for specific uses within this area at the current time.

The applicants have submitted the following documents to accompany the application:

- Planning and Retail Statement;
- Design and Access Statement;
- Sustainability Statement;
- Transport Scoping Study;
- Transport Assessment;
- Drainage SUDS and Flooding Assessment Report;
- Employment Land Review;
- Economic Impact Assessment;
- Public Consultation Statement and Community Consultation Report;
- Stage 1 Site Investigation Study and Site Investigation Report;
- Archaeological Watching Brief;
- Tree Report;
- Noise Impact Assessment; and
- Air Quality Assessment.

Dundee and Angus Structure Plan 2001 - 2016

Employment Policy 1: Employment Land Supply - this policy makes provision for an effective 5 year supply of employment land with the allocation of new land for employment. The

policy indicates at least 110 hectares of marketable land is required to ensure that there is an effective five year supply within the City.

The Employment Land Audit (June 2009) highlights that there was sufficient marketable land available to meet the requirements of Employment Policy 1 of the Structure Plan. Given the current supply of land, it is considered that the loss of this site (6.68 hectares) to a non business use would not significantly undermine the provision of maintaining an effective 5 year supply of marketable employment land within the City.

Employment Policy 2: Existing Employment Areas - this policy requires the Council to safeguard and promote land for employment use (Classes 4, 5 and 6 of the Use Classes Order) at existing employment sites throughout the city including Kingsway West. The loss of the site to a retail use is considered to be contrary to this policy.

An Employment Land Report has been submitted to accompany and support this application. This Report considered the effect that the loss of an existing industrial facility and land within the estate would have on the supply of accommodation and employment land. The applicants' agents advise that property evidence set out in this Employment Land Report indicates clearly that there is no reasonable prospect of the site being either re-occupied for a new single user, converted into smaller units or redeveloped for new employment purposes. They further advise that the development of the proposed store will improve future development prospects through the clearance of the existing buildings from the site and through the provision of an access road that will serve the remaining parts of the site. These infrastructure improvements will provide improved access which will benefit all businesses in the Wester Gourdie Industrial Estate.

The applicants conclude that although the application will result in the development of part of the site for retail purposes, it will assist in improving the long term prospects for the development of the remainder of the NCR site for business uses. In doing so they argue that this would be in accordance with the objectives of Employment Policy 2.

It is accepted that the site is unlikely to be redeveloped for business uses in the short term and that its redevelopment would improve future development prospects for the remainder of the NCR site. In addition, it is accepted that the infrastructure improvements will provide improved access which will benefit all businesses in the Wester Gourdie Industrial Estate.

Dundee Local Plan Review 2005

Policy 21: Economic Development Land Supply.

The policy reiterates the requirements of Employment Policy 1 of the Structure Plan above. It has been concluded that the loss of this site to non business/industrial use would not significantly undermine the provision of an effective supply of marketable employment land within the city.

Policy 24: Principal Economic Development Areas - this policy advises that sites located within Principal Economic Development Areas are of city wide significance and should be safeguarded for industrial and business uses. As such this policy seeks to resist uses outwith Classes 4 (Business), 5 (Industrial) and 6 (Storage and Distribution) of the Use Classes Order 1997. The Policy does set out exceptions as defined by Policy 27 (Ancillary Services within Economic Development Areas) of the Plan.

The application site forms part of the Wester Gourdie Principal Economic Development Area and is one of a number of well located and long established economic development areas that are considered to remain well suited for their purpose. The use of the site for a Class 1 retail food store would be contrary to the provisions of Policy 24 including the exceptions as defined in Policy 27 of the Plan.

While the applicants agree that the use of the site for the proposed food store would be contrary to the provisions of this Policy, they justify setting aside the terms of this policy in this instance by virtue of the limited development potential of the site for industrial and business uses in the future. This justification is outlined above in the consideration of Employment Policy 2 of the Structure Plan and the response to this justification is also set out above and is considered to apply to

Policy 24 (Principal Economic Development Areas).

Retailing Policies

Dundee and Angus Structure Plan 2001 - 2016

Town Centres and Retailing Policy 4: Out of Centre Retailing - the proposal involves an out of centre foodstore with a gross floorspace of 8,295m² and, as such, it requires to be considered against the policy's assessment criteria for major new out of centre retail developments. The proposal is considered below in relation to each of these criteria.

a Site Availability

It must be demonstrated, in the first instance, that no suitable site is available for the development either within the city/district centres or, thereafter on the edge of these centres. The Retail Statement submitted on behalf of the applicants indicates that the principal market to be served by the proposals is the western sector of the City. While noting that the Lochee District Centre lies within the primary catchment area for the proposal, the statement examines the potential site opportunities in and on the edge of that centre and also at the Hilltown and Perth Road District Centres. The applicants conclude that there are no sites or premises available in or on the edge of existing centres capable of accommodating the development under consideration. Taking account of the applicant's argument it is accepted that at present there is no suitable site available to accommodate the proposed development.

b Impact on Existing Centres

The policy requires that proposals for new out of centre retail developments do not prejudice the vitality and viability of existing city, town or district centres. The Planning and Retail Statement submitted to accompany this application includes an assessment of the retail impact which could be associated with the proposal. Amongst other things, this takes account of the findings of a household survey undertaken on

behalf of the applicants and of the Dundee City Region Retail Study undertaken in 2006 on behalf of the City Council. The statement also includes health checks covering the relevant shopping centres. The assessment estimates the trade diversion from competing retail destinations and proceeds from this to consider the retail impacts on key centres including the City Centre, and the Hilltown, Lochee and Perth Road District Centres.

The Retail Impact Assessment states that the majority of the turnover of the new store (£25.04 m) would be diverted from the existing major out of centre foodstores throughout the city. The remainder of the turnover of the new store (£9.11 m) would be diverted from the city centre and the district centres at Lochee and Perth Road. The assessment concludes that while the proposed new store would have an adverse impact on existing freestanding superstores it would not affect the viability of any of these stores. Furthermore it concludes that, on the basis of the figures submitted for consideration, the development would not adversely affect the vitality and viability of the city centre or any of the district centres.

In light of the above it is concluded that while not every aspect of the submitted Retail Impact Assessment is necessarily accepted, the broad findings appear to be realistic. It is accepted that the proposal is unlikely to affect the viability of any of the existing out of centre foodstores. Although the assessment indicates that the development will not harm the vitality and viability of the City and District Centres, it is concluded that it will divert from them expenditure which could otherwise have enhanced their vitality and viability. In addition and while the overall impact on Lochee does not appear to be large, this includes a significant impact on its already reduced food shopping turnover. In light of this it is considered that the proposed development is likely to have a detrimental affect on the future vitality and viability of

Lochee District Shopping Centre. However, it is intended to attach conditions to any permission granted that restricts the size of the store, limits the type of goods for sale from the premises and prohibits the provision of concessionary units within the building in order to minimise this potential impact on Lochee.

c Deficiency in Shopping Provision

An important criterion of this policy is the requirement to demonstrate that the proposal would address a deficiency in shopping provision that would not be met by new provision within or on the edge of a city, town or district centre. In a Dundee context, this means in effect that it must be established that a new out of centre retailing proposal will overcome shortcomings in, for example, the availability and accessibility of a particular type of retailing in that part of the city. The applicants have concluded through the findings in their Retail Impact Assessment that the proposed development would address retail deficiencies in the west of Dundee. The applicants also argue that the development would be well located to serve any proposed new housing areas identified for the expansion of west Dundee.

However, against the background of a generous overall supply of food shopping floorspace and the improved distribution of major food retailing resulting from, amongst other things, the completion of Morrison's (Forfar Road) and Tesco (South Road) stores, the city benefits from good provision for this type of retailing. Furthermore, given the existing availability of major foodstores and District Centres serving the western sector of the city, it is considered that there is no deficiency to be addressed at this time.

d Accessible by Modes of Transport (other than by car)

Accessibility issues have been assessed in detail in the Transport Assessment that has been submitted to accompany this application. This Assessment has demonstrated that the site is

accessible by a choice of transport modes other than by private car.

In light of the above it is concluded that the proposals conflict with criterion b) and c) above of Town Centres and Retailing Policy 4 (Out of Centre Retailing) of the Structure Plan.

Dundee Local Plan Review 2005

Policy 45 (Location of New Retail Developments) - this policy reiterates the requirements set out in the Structure Plan's Town Centre and Retailing Policy 4 above. In this respect, the proposals are considered to conflict with the terms of Policy 45.

Policy 44 (Petrol Filling Station Shops) - this policy states that the establishment of petrol filling station with a sales floorspace in excess of 100m², will be required to be considered in relation to their impact on the viability and distribution of existing local shopping provision and their acceptability in traffic safety grounds.

The application is for planning permission in principle and only illustrative details of the proposed store and petrol filling station have been submitted for consideration at this time. Should the facility exceed 100m² at any future planning application stage, then the proposal will be assessed under the requirements of this Policy.

Transportation Policies

Dundee and Angus Structure Plan 2001 - 2016

Transport Policy 1: Strategic Transport Links - this policy states that the Council's will work in partnership with other organisations to maintain and improve strategic transport infrastructure within the Structure Plan area. The proposed development is located adjacent Kingsway West A90 (T) which forms part of the strategic road network. Improvements to the junction of Myrekirk/Kingsway West are proposed which will not only result in acceptable access to the development site but will result in wider improvements which will support access to South Road and Wester Gourdie Industrial Estate. The proposal does not conflict with the terms of this Policy.

Transport Policy 4: Development Location - this policy requires that new development should, as a minimum, satisfy certain criteria. The applicants advise that the information provided in the submitted Transportation Assessment and the Planning Statement demonstrate that the proposed development:

- 1 will provide safe and convenient and attractive facilities for pedestrian, cycle and public transport access;
- 2 will utilise existing walking and cycle routes which link into established/planned networks and will enhance linkages to nearby residential areas;
- 3 will be highly accessible on public transport networks; and
- 4 will demonstrate that the local road network has existing capacity for the proposed development.

The above conclusions have been considered and accepted. However, it is intended to attach conditions to any permission granted that would ensure certain improvements to the scheme are carried out before certain 'trigger points' in the construction process in order to ensure that the future access arrangements for the site are to the standard required by this Authority. Taking this into account it is concluded that scheme does not conflict with the terms of Transportation Policy 4.

Dundee Local Plan Review 2005

Policy 48 (Accessibility of Out of Centre Retail Developments) - accessibility issues have been assessed in detail in the Transport Assessment that has been submitted to accompany this application. This Assessment has demonstrated that the site is accessible by a choice of transport modes other than by private car. In addition, the TA also assesses proposed links to existing footpaths and cycle ways in the area. It is intended to attach appropriate conditions to any permission granted requiring the submission and approval of, amongst other things, bus service details, pedestrian crossing details and footway/cycleway details prior to the opening of the store. On this basis, the proposal does not conflict with the terms of this Policy

Policy 55 (Urban Design) - this policy emphasises the importance of design quality and a Design Statement has been submitted in support of this application. The proposal is for planning permission in principle and the submitted details are for illustrative purposes only at this time. The applicants have advised that it is intended that the store will be designed in an attractive and modern style using exposed steel structure and sustainable timber cladding to the primary elevations with high quality smooth white cladding to the rear elevations. The building will be similar in scale to the existing buildings surrounding the site with sensitive design to critical boundaries to provide a successful transition to the residential area to the south.

The formal consideration of the design details of the building and associated facilities, should this application be supported, will be carried out in the determination of any future planning application or Application for the Approval of Conditions Placed on Planning Permission in Principle (formerly Reserved Matters Application) for the development of the site.

Policy 56 (Public Art) - this policy advises that the Council will continue to support Public Art provision through the adopted Public Art Strategy and the Percent for Public Art.

The applicants have agreed to the imposition of a relevant condition requiring the provision of a percent for public art scheme as part of the development. Discussions between the applicants/agents and the local community have taken place on this matter. The proposal subject to a condition is considered to be acceptable in terms of Policy 56.

Policy 57 (Visual Impact on Major Routes) - this policy identifies the importance of the visual image of the city and improving the quality of the environment. The application site is highly visible from Kingsway West to the south. The site currently accommodates an aging industrial building set in a landscape setting on its south elevation. The proposed demolition of the existing building and the redevelopment of the area presents an opportunity to improve the appearance of this prominent corner site. The acceptability of the future

development of this prominent frontage site is assessed in the consideration of Policy 55 (Urban Design) above.

Policy 72 (Trees and Urban Woodland) - this policy seeks to have regard to healthy mature trees and, where appropriate, require tree planting and landscaping schemes to accompany development proposals which should include a supporting justification and map based material. The application site accommodates a number of trees that are the subject of a Tree Preservation Order. The Tree Report that accompanies this application has carried out a review of the condition of these trees and has made various recommendations including replacement planting which would be implemented as part of a landscaping scheme for the proposed development. An illustrative landscape scheme has been submitted to accompany the application. The proposals involve the removal of a number of protected trees which is inconsistent with the general aspiration of the policy to protect and retain trees through sensitive site layouts. However, the removal of the identified trees is not considered to be critical to the visual importance of the trees in this location. In order to enhance the remaining landscape features on the site it is intended to attach a condition to any permission granted that would require the implementation of an approved landscaping scheme within a certain period of the opening of the store to the public.

Policy 76 (Flood Risk) - this policy provides a general presumption against development in areas of significant flood risk. The applicants have submitted a Drainage SUDS and Flooding Assessment to accompany their application. It has been confirmed that the application site is not in an area of significant flood risk. The proposal is considered acceptable in terms of Policy 76.

Policy 79 (Contaminated Land) - in sites with suspected contaminated land this policy requires applicants to provide details of site investigations assessing the extent of contamination and identify appropriate remediation measures. A Stage 1 Site Investigation has been undertaken and submitted in support of the application. This identifies that there is a significant risk of contamination on the site and makes a number of recommendations for

additional action. A partial Stage 2 Site Investigation Study has also been submitted to accompany the application.

The Council's Head of Environmental Health and Trading Standards has reviewed the contents of the above documents and has requested that certain conditions be attached to any permission granted that requires, prior to the commencement of development, the further investigation and risk assessment proposed are completed and that a remediation strategy to deal with contamination on the site is submitted to and approved by the planning authority. It is also requested that before the unit is occupied the remediation strategy shall be fully implemented and a verification report demonstrating that the objectives of remediation strategy have been achieved submitted to and approved in writing by the planning authority. The proposal, subject to appropriate conditions, is considered acceptable in terms of Policy 79.

Policy 81 (Pedestrians) - this policy requires consideration of the ease and safety of pedestrians as a priority over other forms of transport. The applicants have submitted a Transport Assessment which identifies improvements to pedestrian accessibility and safety both within the main part of the site and also through the proposed improvements to the junction of Kingsway West and Myrekirk Road. The proposals are considered to be consistent with the aims of this Policy 81.

Policy 82 (Cycle Facilities) - this policy primarily considers the actions of the Council in support of cyclists. The policy also requires the provision of appropriate cycle paths and cycle parking facilities in the development proposals. The submitted indicative proposals make provision for cyclists including cycle parking. The proposed improvement to the junction of Kingsway West and Myrekirk Road will also enhance cyclists' safety. It is intended to attach a condition to any permission granted that requires, prior to the commencement of trade from the store, a footway/cycleway must be provided (in accordance with a scheme approved by the Council) to the north of Kingsway linking in with the existing footways and underpass. The proposals are considered to be acceptable, subject to appropriate conditions, in terms of Policy 82.

Policy 86 (Road Network) - this policy is concerned with actions of the Council in terms of improvements to or protection of the road network. This policy identifies, amongst other things, a need to improve the junction of Kingsway West/Myrekirk Road to assist development in the west side of the city. The application under consideration will secure these improvements. In this respect, the proposal is considered to be consistent with this aspect of Policy 86.

It is concluded from the above that the proposal is considered acceptable, subject to the imposition of appropriate conditions in certain instances, in terms of Structure Plan Transport Policies 1 and 4 and Dundee Local Plan Policies 21, 44, 48, 55, 56, 57, 72, 76, 79, 81, 82 and 86.

It is also concluded that the proposed development fails to comply with the requirements of Structure Plan Employment Policy 2 and Town Centre and Retailing Policy 4 and Dundee Local Plan Policies 24 and 45 that relate to employment land and retailing.

In light of the above, it is concluded that the proposal does not fully comply with the provisions of the development plan.

Other Material Considerations

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

Statements of Policy and Government Advice

Scottish Planning Policy 2: Economic development - SPP2 advises that the planning system should provide strong support for economic development, both new and expanding businesses, where it is consistent with other national policies and local policies. It also identifies that, amongst other things, the planning system should:

- ensure that existing business locations are able to meet the anticipated changes in the economy and that they provide choice for a diverse range of economic developments;
- secure and support the delivery of sites for economic development in sustainable locations by identifying key locations that are highly accessible by public transport; and

- safeguard and enhance the environment, by requiring that new development is of a high design quality and protecting the natural and built heritage.

The SPP notes that retailing (and other sectors) makes a significant contribution to economic development. It also states that where existing long standing allocations have not been developed or where business uses such as manufacturing fall out of use and are in locations considered to be no longer appropriate or marketable for their original purpose, the sites should be reallocated and redeveloped for other purposes.

It is considered that the proposed development would achieve several of the aims of SPP 2 by providing a use which would support the wider economy of the city, by providing a productive use for part of the site for which there is only a potentially limited prospect of future Class 4, 5 or 6 developments, reducing the cost of the development of the remainder of the former NCR site through the removal of aging buildings and providing a new access into the site that would improve the overall accessibility for existing businesses within the remainder of the estate.

Scottish Planning Policy 8; Town Centres and Retailing - SPP8 identifies economic growth as a top priority for the Scottish Executive with retail being a key contributor to this. The SPP identifies a number of key policy objectives including the promotion of competitive places and regeneration, allowing all sectors of the community access to a range of shopping services, improving the physical quality of town centre environments and supporting development in accessible locations.

The policies of the Development Plan are considered to be in accordance with the guidance set out in SPP8. The proposal has been considered against the retailing policies of the development plan, as set out above, and it is considered that no further issues are raised in terms of SPP8.

Scottish Planning Policy 17: Planning for Transport - this Policy promotes sustainable development in appropriate locations and seeks to ensure that development is well located in terms of public transport and pedestrian and cycle routes. Planning Advice Note:

Planning for Transport offers guidance on the policy contained in SPP 17.

The applicants have submitted a Transport Assessment (TA) in support of the proposed development which includes, amongst other things, improvements to the Kingsway West/Myrekirk Road roundabout. The TA concludes that the proposed infrastructure improvements to the A90(T) Kingsway West/Myrekirk Road roundabout to a traffic signal controlled junction along with the willingness of Travel Dundee to route bus services to the proposed development will result in the provision of an accessible site in terms of walking, cycling and Public Transport travel with links to surrounding residential catchments. The implementation of a Travel Plan in addition to these measures is likely to result in a successful sustainable development.

The TA also concludes that the upgrade of the junction will offer improvements in terms of safety which could reduce the number of accidents that occur. The upgrade of the junction associated with the development will therefore benefit both the local and trunk road network and the users thereof.

The proposals have already been assessed against Town Centres and Retailing Policy 4, Transport Policy 1 and Transport Policy 4 of the Structure Plan and Policies 45, 48, 81, 82 and 86 of the Dundee Local Plan 2005 and were found to be acceptable subject to certain conditions. It is therefore considered that the proposal in terms of its impact on the local road network is acceptable in terms of the guidance contained within SPP 17 and PAN 75

PAN 84: Reducing Carbon Emissions in New Development and SPP 6: Renewable Energy.

A Sustainability Statement has been submitted in support of this application which demonstrates a range of measures that would be able to be included and investigated within the detailed design of the development to achieve betterment on emissions that are identified in the 2007 building regulations. This includes both low - zero carbon technologies and reducing the demand for energy through passive building design measures and materials. The Council is supportive of such an approach which is

considered to be consistent with the guidance contained PAN 84.

Provision of Suitable Access and Transportation

The proposed development affects the Kingsway Trunk Road by virtue of the proposed improvements to the roundabout at the Kingsway West/Myrekirk Road roundabout. Accordingly, Transport Scotland (the Scottish Executive Enterprise Transport and Life Long Learning Department - Network Management Division) were consulted. They are supportive of the proposed development and have requested that certain conditions be attached to any permission granted by the Council.

Economic Benefits

An Economic Impact Assessment has been submitted in support of the application. The purpose of the report was to highlight the economic benefits which would accrue to the city as a result of the development of the site. The report concludes that the project would have a strong strategic fit within the ambitions of the Dundee Partnership and the economic development plan 2008 - 2011. It is stated that the jobs that will be created will be targeted towards local regeneration areas and will be a major much needed boost to the local employment market. The closure of the NCR factory was a major blow to the economy but the re-development of the site will create more jobs than those which were lost when the factory finally closed. The creation of additional employment opportunities within the city is considered to be a strong material consideration in the determination of this application.

Pollution and Contamination

Air Quality is a material consideration in determining applications for planning permission in principle when the development may give rise to air quality issues. The main air quality issue identified with the development is the current location of the proposed access leading into the site from Myrekirk Road. This proposed access is located adjacent to an existing children's nursery. It is estimated that there will be a significant increase in traffic flows outside this facility. In order to ensure minimum impact on the occupiers of these premises the

Council's Head of Environmental Health and Trading Standards has requested that certain conditions be attached to any permission granted that requires, amongst other things, the relocation of this junction to a more appropriate location on Myrekirk Road. The applicants have been advised of this requirement.

Policy 70 (Contaminated Land) of the Plan states, amongst other things, that in certain circumstances alternatives to the uses permitted by the Local Plan may be supported on contaminated sites where it is demonstrated that the severity of contamination is such that the site cannot be economically developed for its allocated use. In this respect the applicants argue that it has been demonstrated from market evidence alone that the site could not be developed for Class 4, 5 or 6 uses regardless of the ground conditions. They state that the site investigation has also indicated a high risk of contamination associated with the manufacturing use of the site. They further state that there will be significant additional costs associated with the remediation of the site which will further increase the inability of the site to support employment uses. This is an additional factor to support the development of the site for the proposed retail use.

It is therefore considered that the proposal in terms of environmental control, subject to appropriate conditions being attached to any permission granted, is acceptable in terms of the guidance and good practice advice contained in PAN 51 and the Councils Non Statutory Planning Advice on Air Quality and Land Use Planning.

Suitability of the Site

It is considered that there are no physical impediments (ie liable to flooding, contamination, ground instability) to the successful development of the site.

Appearance of the Proposed Development in Relation to its Surroundings

The application is for planning permission in principle only. Details of the new buildings have been submitted for 'illustrative' purposes only. However the applicants have advised, through the terms of an

accompanying Design Statement, that any development will take into account the characteristics of the surrounding buildings in terms of scale and height.

Compatibility with Existing Uses

The use of the site for retail purposes is not considered to be significantly prejudicial to the surrounding land uses in terms of any increase in environmental matters such as noise, dust or fumes. It is recognised that the current location of the proposed new roundabout on Myrekirk Road may have a potential impact on the adjacent nursery; it is intended to investigate the relocation of this access point in order to reduce any potential pollution issues. It is also considered that the surrounding industrial, commercial and residential uses are unlikely to be prejudicial in terms of environmental controls to the successful operation of the premises as a retail store.

Desirability of Retaining the Existing Use

This site has been the location of a long established industrial use within the city for a considerable number of years. While the site occupies a good location on the Kingsway West frontage there is a potential that, due to the nature of the buildings and size of the site, it may be difficult to attract an appropriate redevelopment of the site for industrial/business purposes in the near future resulting in the creation of a vacant building/site in a prominent location. This would be detrimental to the visual quality of this stretch of Kingsway West.

It is considered that the loss of the site to a retail use will not significantly undermine the provision of maintaining an effective 5 year supply of marketable employment land within the city. The site occupies a corner location within the industrial estate and its development for a new store would neither compromise the integrity of Wester Gourdie or draw any extraneous traffic through the estate.

Planning Benefits

It is considered that the development will provide improvements to the strategic road network that will assist in free flow of traffic along A90 (T) (Kingsway West).

It is also considered that the proposed development will assist in the

redevelopment of the whole of the former NCR site through the provision of enhanced road access and the clearance of buildings from the site. These access improvements would also assist in the development of the High Amenity Economic Development Area at Balgarthno located to the west. These benefits are considered to be a strong material consideration in the determination of this application.

Objections

Eight objections to the proposals have been received. The main concerns raised are as follows:

- 1 The proposals are contrary to National policies, Structure Plan and Local Plan policies.
- 2 The site should be retained for industrial purposes.
- 3 The proposals will give rise to transportation and access problems.
- 4 The proposals will result in an over provision of supermarkets in the west end of the city and a need for the development in qualitative and quantitative terms has not been established.
- 5 The development will adversely impact on Lochee District Centre and the Angus rural area and such developments should be directed to the city centre or District Centre locations.
- 6 The proposed use has no customer base on the north side of Kingsway West and will result in increased pedestrian crossing of a Trunk Road.
- 7 7) A sequential analysis of commercial centres outwith the city centre and District Centres has not been undertaken in relation to the location of the new store.
- 8 The proposal will result in unrestricted non food comparison goods being sold from the site when there are existing retail sites unable to do so.
- 9 The development will adversely impact on local residents by virtue of increased noise and smell.
- 10 The proposal, if approved, may result in the closure of an existing

store in the Kirkton area of the city.

- 11 Insufficient time has been allowed for third parties to fully assess the terms of the submitted Transport Assessment.

With regards to points 1 - 7 it is concluded that these matters have been discussed and discharged in consideration of the various development plan policies above.

With regard to point 8), recognition of this matter by the Council is addressed by the suggested imposition of appropriate conditions attached to any permission granted that require restrictions on the gross floor area of the proposed store, restrictions on the sale and display of comparison goods and the prohibition of any concessionary units being provided within the building.

With regard to 9) the applicants have submitted a Noise Impact Assessment in support of their proposals. The Councils Head of Environmental Health and Trading Standards has advised that he has no objections to the proposals provided that the mitigation measures identified in the submitted Noise Impact Assessment are implemented. In addition, in order to safeguard the amenity of nearby householders from potential tonal aspects of noise from fixed plant, it is suggested that a condition that all noise from the plant shall not exceed NR35 as measured 1 metre distant from the facade of the residential property be attached to any permission granted.

With regard to 10) (closure of existing store), the applicants have advised that it is not their intention to close the existing store in the Kirkton area of the city. However, this store is not protected and is not located within a District Centre and consequently there are currently no planning controls covering the longevity of this building. It is considered that this matter is not a material consideration in the determination of this application.

With regard to point 11), a draft Transport Assessment was submitted to this Council on 18 November 2009. This was subsequently accepted as the Final Transport Assessment on 9 December 2009. It is considered that sufficient time has been allowed for the submission of detailed comments from any third party on this matter.

Letters of Support

The application has also attracted 5 letters of support. The main areas of support are as follows:

- 1 the regeneration of the site will attract new business and investment to the local area;
- 2 the proposals will result in increased employment opportunities;
- 3 the proposed improvements to the Myrekirk roundabout will help ease traffic congestion and remove a constraint to the future development of vacant sites in the adjacent industrial estate;
- 4 the applicants would work with local businesses and support local communities;
- 5 the proposals offer a wider choice of shopping facilities in the area.

With regard to points 1) - 3) above it is concluded that these matters have been discussed and discharged in consideration of the relevant development plan policies found elsewhere in this report.

With regard to points 4) & 5), while these matters have been reported as being comments in support of the application, it has been concluded that these matters are not material considerations in the determination of this proposal.

Community Consultation

The applicants and agents undertook a Community Consultation exercise in order to seek the views of the public on the proposed development. A Public Consultation Statement and a Community Consultation Report have been submitted to accompany this application. The consultation process included, amongst other things, an organised Public Exhibition featuring the plans and images in the Charleston Community Centre on 23 and 25 July 2009, the distribution of approximately 1,600 information leaflets with a tear-off feedback form by post and via the public exhibition, participation in the Charleston Gala Day by the applicants (at the invitation of the Charleston Tenants and Residents Association), with representatives available to answer questions about the proposals and meetings between the applicants and agents and Key Stakeholders which

included the local Tenants and Residents Association, the local Communities Association, surrounding businesses, Dundee Civic Trust, Chamber of Commerce and Dundee College.

The submitted Community Consultation findings suggest that of the 118 feedback forms received, 97.5% of respondents supported the proposals. 1.7% did not support the proposals and 0.8% did not provide an answer.

Commercial Competition

It is considered that the identity of the applicants is not a relevant consideration in the determination of this application for planning permission in principle and consequently it is concluded that commercial competition is not a material consideration.

It is concluded from the foregoing that sufficient weight can be accorded to some of the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

The applicants' agents have submitted a Design and Access Statement to accompany this application. This advises, amongst other things, that the store will be designed in an attractive and modern style using exposed steel structure, large areas of glazing and sustainable timber cladding to the primary elevations and white cladding to the rear. It is intended that the size and scale of the building will be similar to the existing buildings surrounding the site.

However, these design details are specifically identified as being for 'illustrative' purposes only and consequently do not form part of the formal determination of this application. Should the Members be minded to grant permission, there will be an opportunity to assess the design, scale, massing, appearance and materials of the proposed store following the submission of an application for planning permission or applications for the Approval of Conditions Placed on Planning Permission in Principle (formerly known as Reserved Matters Applications).

CONCLUSION

It is concluded that the proposed development is acceptable in terms of Structure Plan Transportation Policies 1 and 4. It is also considered that the proposals are acceptable in terms of Dundee Local Plan Policies 21, 44, 48, 55, 56, 57, 72, 76, 79, 81, 82 and 86.

It is also concluded that the proposed development is not in accordance with the development plan, particularly with regard to both Structure Plan and Dundee Local Plan Policies that relate to Employment Land and Location of New Retail Developments.

However, it is considered that there are other material considerations of sufficient weight that would justify the setting aside of these policies and offering support for the development subject to certain conditions. These considerations relate particularly to the planning and economic benefits that would arise from the development in terms of improved transportation arrangements for the A90(T) and the adjacent industrial estates and the potential for the creation of additional employment opportunities within the city. It is also considered that the development will allow a potential opportunity to improve the remainder of the adjacent site to the north and east for modern industrial and business uses.

It is concluded that the proposal does not undermine the core land use and environmental strategies of the development plan. The planning and economic benefits that would accrue from the proposed development would be important to the future development and viability of the city as a regional centre. These benefits are considered to be of a significant weight and sufficient to set aside the relevant provisions of the development plan.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:

- 1 Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building (s) and the landscaping of the site.

2 The application(s) for the approval of matters referred to in Condition 1 above must be made before whichever is the latest of the following :

- a the expiration of 3 years from the date of the grant of permission;
- b the expiration of 6 months from the date on which the earlier application for the requisite approval was refused; or
- c the expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Only one application for the approval of matters specified in conditions can be made after 3 years from the date of the grant of the permission.

3 Prior to occupation of any part of the development the modifications to the A90/Myrekirk Road roundabout generally in accordance with AECOM drawing number 60101543 SK_ 013 and incorporating further pedestrian crossing facilities on the west arm, shall be completed to the satisfaction of the planning authority, after consultation with Transport Scotland Trunk Road Network Management.

4 The traffic signals associated with the works indicated in condition 3 above shall incorporate either MOVA control, or other approved means of dynamic control and queue detection (eg SCOOT), to the satisfaction of the planning authority, in consultation with Transport Scotland Road Network Management.

5 No direct vehicular access to the site from the A90 trunk road shall be permitted during either the construction or operational phase of the development.

6 Prior to the commencement of any development on the site details of the proposed traffic management schemes to be implemented during the construction of the development shall be submitted to and approved by the planning authority in consultation with

Transport Scotland Road Network Management.

7 Prior to the commencement of any development on site proposals for the provision of either new or extended bus services across the A90 (T) to the development, including details of operating hours, frequency of service, route and timescale for introduction, shall be submitted to and approved in writing by the planning authority, after consultation with Transport Scotland Trunk Road Network Management.

8 Concomitant with the occupation of any part of the development the agreed bus services referred to in Condition 7 above shall be introduced.

9 Prior to the commencement of any development on site a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network. For the avoidance of doubt, the Travel Plan shall identify measures to be implemented; the system of management, monitoring, review and reporting; and the duration of the plan.

10 Prior to the occupation of any part of the development a scheme for the upgrading of the pedestrian pass beneath the A90 Kingsway West shall be approved and implemented to the satisfaction of the planning authority in consultation with Transport Scotland Trunk Road Network Management.

11 Details of all lighting and advertising features within the site shall be submitted to and approved in writing by the planning authority in consultation with Transport Scotland Trunk Road Network Management.

12 Prior to the commencement of development a fence/barrier of a type approved by the planning authority in consultation with Transport Scotland Trunk Road Network Management shall be provided and maintained along

the proposed boundary of the site with the trunk road.

13 Prior to the occupation of any part of the development a footway/cycleway on the north side of Kingsway West linking with existing footways and the underpass shall be provided in accordance with a scheme that has been submitted to and approved in writing with the planning authority.

14 Prior to the commencement of any development on site details of the proposed widening of Myrekirk Road South at the junction of Myrekirk Road and Kingsway West shall be submitted to and approved in writing by the planning authority.

15 Prior to the occupation of any part of the development a fully linked and operational CCTV system shall be provided at the revised Kingsway West/Myrekirk Road junction in accordance with a scheme that has been submitted to and agreed in writing by the planning authority in consultation with Tayside Police.

16 That prior to the occupation of any part of the development an access to the site from Myrekirk Road shall be formed and constructed in accordance with a scheme that has been submitted to and approved in writing by the planning authority. For the avoidance of doubt, this scheme shall be submitted to and approved in writing by the planning authority prior to the commencement of development on the site.

17 Prior to occupation of any part of the development the proposed widening of Myrekirk Road North between Kingsway West and the proposed store access shall be formed and constructed in accordance with a scheme that has been submitted to and approved in writing by the planning authority.

18 Prior to the occupation of any part of the development details of a proposed off carriageway bus stance/lay-by to Dundee City Council specifications shall be submitted to and approved in writing by the planning authority.

- 19 That prior to the occupation of any of the development a bus shelter incorporating Real Time Information to Dundee City Council specifications shall be provided and operational at the bus stop located to the east of Myrekirk Road South.
- 20 Prior to the occupation of any part of the development a bus pole and associated road markings shall be provided to the west of Myrekirk Road North in accordance with a scheme that has been submitted to and approved in writing by the planning authority
- 21 That prior to the occupation of any part of the development a service access to the proposed store shall be formed and constructed in accordance with a scheme that has been submitted to and approved in writing by the planning authority.
- 22 That the internal road and car parking layout associated with the proposed new store shall be set to allow for the provision of public transport movement through the site.
- 23 Prior to the commencement of any of the road works associated with the development a Stage 2 Road Safety Audit shall be submitted to and approved by the planning authority in consultation with Transport Scotland Trunk Road Network Management. For the avoidance of doubt, the Road Safety Audit shall incorporate all roads, footways and internal layout of the site.
- 24 Within one month of the commencement of trading from the store or within a further period of time that has been agreed in writing with the planning authority, a Stage 3 Road Safety Audit shall be submitted to and approved in writing by the planning authority in consultation with Transport Scotland Trunk Road Network Management.
- 25 That prior to the commencement of trading from the store pedestrian crossing points in the form of dropped kerbs shall be provided on Myrekirk Road North in accordance with a scheme that has been submitted to and approved in writing by the planning authority.
- 26 Prior to the commencement of trading from the store pedestrian crossing points in the form of dropped kerbs shall be provided within Charleston Housing area in accordance with a scheme that has been submitted to and approved in writing by the planning authority
- 27 Prior to the commencement of any development on the site the further investigation and risk assessment proposed in the Stage 1 Desk Study and the partial Stage 2 Site Investigation Study are completed and a remediation strategy to deal with contamination at the site has been submitted and approved in writing by the planning authority. The strategy shall contain proposals to deal with contamination to include:
- the nature, extent and type(s) of contamination on the site
 - measures to treat/remove contamination to ensure that the site is fit for the use proposed and does not contain any significant pollution linkages
 - measures to deal with contamination during construction works
 - verification of the condition of the site on completion of decontamination measures
- For the avoidance of doubt, before any unit is occupied the remediation strategy 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 in writing by the planning authority.
- 28 Prior to the occupation of any part of the development the noise mitigation measures detailed in the Acoustic Report by Paul Horsley Acoustics Limited, dated 19th August 2009 shall be implemented in full.
- 29 That total noise from all mechanical and electrical services shall not exceed NR35 as measured 1 metre external to the facade of the nearest residential property.
- 30 Prior to the commencement of any development full details of public art provision for the development shall be submitted to and approved in writing by the planning authority. For the avoidance of doubt, the public art provision shall be completed only in full accordance with such approved details prior to the first use of the unit or within such a further period of time that has been agreed in writing with the planning authority.
- 31 That prior to the commencement of development a minimum 6 months monitoring of PM 10 (with 90% data capture) shall be undertaken in the vicinity of the application site in a location and in accordance with a methodology statement that has to be submitted to and approved in writing by the planning authority.
- 32 Prior to the commencement of development a revised Air Quality Assessment that includes the results of the monitoring required by condition 31 above, additional road counts, model files and scenario testing of alternative public vehicular access locations shall be submitted to and approved in writing by the planning authority.
- 33 That the details to be submitted in pursuance of condition 1 shall be in respect of a foodstore with a gross floor area not in excess of 8295m² and a net sales area of not more than 4,880m².
- 34 That 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 a limitation that no single group of goods from the following list (a) to (h) inclusive shall occupy more than 50% of the said sales area floor space devoted to the sale of comparison goods, the said listing being as follows:
- Books;
 - Clothing and Footwear;

- c Furniture, Floor Coverings and Household Textiles;
 - d Radio, Electrical and other Durable Goods;
 - e Hardware and DIY Supplies;
 - f Chemist Goods;
 - g Jewellery, Silverware, Watches and Clocks; and
 - h Recreational and other Miscellaneous Goods.
- 35 That the proposed foodstore shall not have located within it any concessionary units for the use of other businesses.

Reasons

- 1 To reserve those matters for future consideration by the Council.
- 2 To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.
- 3 To ensure that the junction layout complies with the current agreed standards and that the safety of the traffic on the trunk road is not diminished.
- 4 To ensure that the junction layout complies with the current agreed standards and that the safety of the traffic on the trunk road is not diminished.
- 5 To ensure that the junction layout complies with the current agreed standards and that the safety of the traffic on the trunk road is not diminished.
- 6 To ensure that the junction layout complies with the current agreed standards and that the safety of the traffic on the trunk road is not diminished.
- 7 To be consistent with the requirements of SPP17: Planning for Transport.
- 8 To be consistent with the requirements of SPP17: Planning for Transport.
- 9 To be consistent with the requirements of SPP17: Planning for Transport.
- 10 To be consistent with the requirements of SPP17: Planning for Transport.

- 11 To ensure that there will be no distraction or dazzle to drivers on the trunk road
- 12 To minimise the risk of pedestrians and vehicles gaining uncontrolled access to the trunk road with the consequential risk of accidents.
- 13 To ensure that there is adequate pedestrian and cycle routes to the proposed development site and to promote sustainable travel to and from the development.
- 14 In order to improve journey times through the junction for vehicles accessing the proposed development.
- 15 In order to ensure adequate control of the proposed traffic lights.
- 16 To ensure that there is an adequate and appropriate junction formed to access the development and minimise impact of traffic pollution at the nursery.
- 17 To ensure there is adequate road capacity to cater for the proposed development traffic.
- 18 To ensure that there is appropriate infrastructure in place to accommodate the required bus service
- 19 To ensure that there is appropriate infrastructure in place for the bus service and to ensure that buses are linked to the Dundee City Council system
- 20 To ensure that there is appropriate infrastructure in place for the bus service
- 21 To ensure service vehicles associated with the proposed development can enter and exit the development site with minimum interference to traffic on Myrekirk Road.
- 22 To ensure that there is adequate space within the proposed development to allow for bus services
- 23 To ensure that the layout is laid out taking due cognisance of road safety and to comply with Dundee City Council Road Safety Audit Procedures.
- 24 To ensure the layout is laid out taking due cognisance of road safety and to comply with

- Dundee City Council Road safety Audit procedures.
- 25 In order to ensure that there are a sufficient number of dropped kerb crossings points to assist pedestrian access to the proposed development.
 - 26 In order to ensure that there is an adequate number of dropped kerb crossing points to assist pedestrian access to the proposed development.
 - 27 In order to ensure that the site is fit for the use proposed.
 - 28 To protect surrounding occupiers from nuisance resulting from noise associated with the operation of the unit hereby granted permission.
 - 29 In order to protect local residents from nuisance resulting from noise associated with the unit hereby granted permission.
 - 30 In order to provide for public art in interests of visual amenity and the appearance of the site.
 - 31 To provide baseline information to inform condition 32.
 - 32 To determine the impact of the development in air quality terms and inform the location of the access to the development from Myrekirk Road.
 - 33 To conform with the approved shopping policies of the development plan.
 - 34 To conform with the approved shopping policies of the development plan.
 - 35 To conform with the approved shopping policies of the development plan and to ensure that no adverse impact is effected upon Lochee District Shopping Centre.