

Planning Development Management Committee

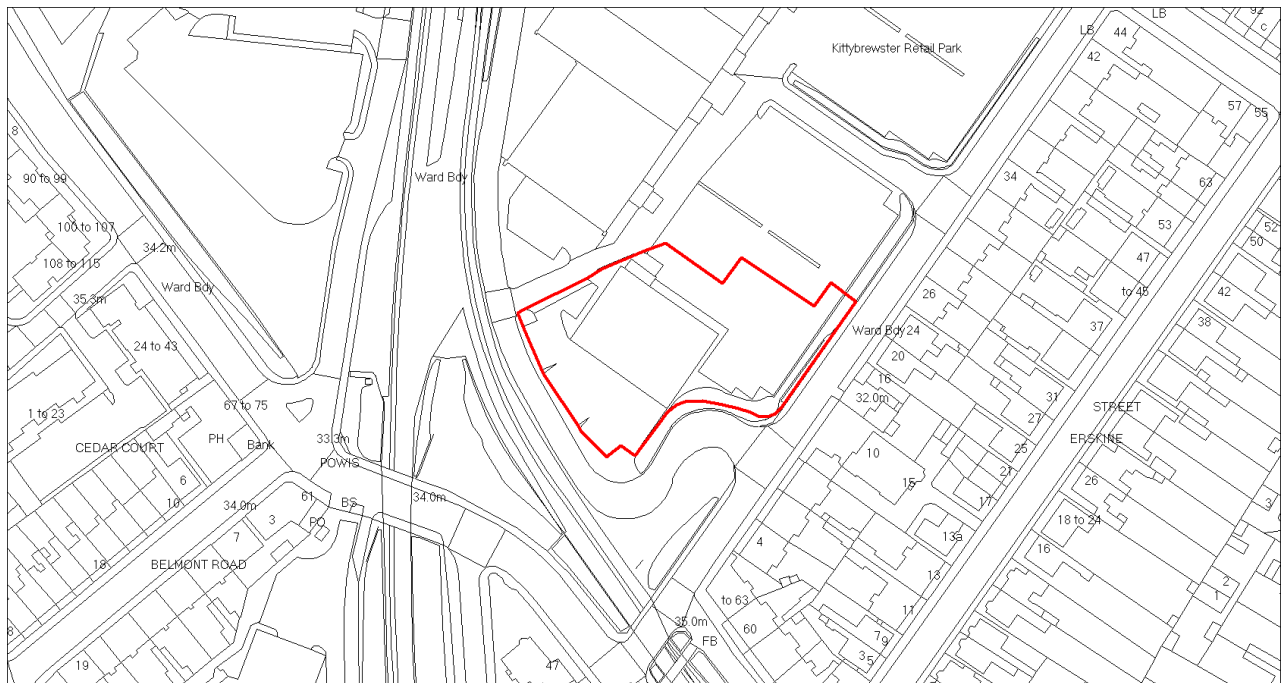
UNIT 7 KITTYBREWSTER RETAIL PARK,
BEDFORD ROAD

DEMOLITION OF UNIT 7 AND ERECTION OF
CLASS 11 (ASSEMBLY AND LEISURE) AND
CLASS 3 (RESTAURANT) DEVELOPMENT
WITH ASSOCIATED WORKS INCLUDING CAR
PARK RECONFIGURATION.

For: Zurich Assurance Limited

Application Type : Detailed Planning Permission
Application Ref. : P130766
Application Date: 30/05/2013
Officer: Sally Wood
Ward : Tillydrone/Seaton/Old Aberdeen
(J Noble/R Milne/R Grant)

Advert: Section 34 -Proj. Pub. Concern
Advertised on: 19/06/2013
Committee Date: 24/04/2014
Community Council : Objects.



RECOMMENDATION: Approve, subject to conditions.

DESCRIPTION

The application site is located at Kittybrewster Retail Park, and relates to Unit 7, which is currently occupied by two retailers, both retailing furniture. The Unit is located within the southern part of the Retail Park. The north boundary of the application site is adjacent the car park, the east elevation faces towards Bedford Road, beyond which are residential properties. To the west and north west is a secondary vehicular access which is generally a service road and is signed as not for 'public access' from the Bedford Road, beyond which is a railway line.

The existing units (Unit 7) occupy the ground floor only, and are considerably lower than the other Units within the Park, and are some 4.9 metres in height.

RELEVANT HISTORY

131509 Engineering and other works to existing service yard and adjacent areas including extension to service yard and creation of pedestrian linkages and associated works (in relation to P130766). Pending consideration.

A6/0872 Refurbishment of the frontage of existing units with the inclusion of a free-standing canopy over the walkway around the front of said units. Approve subject to considerations, 26.02.2007

A6/0883 Erection of a pod unit consisting of 5 units at ground and first floor levels. Approve subject to considerations, 07.03.2007

A6/0874 Demolition of Unit 7 and erection of new retail unit. Refused contrary to officer recommendation at Committee 08.03.2007. Allowed on appeal, 29.10.2007.

Pre-2000 Consents pertaining to the wider Retail Park.

89/0603 Erection of 133 000 sq. ft. non-food retail units 10 000 sq. ft. garden centre & 5000 sq. ft. restaurant. Withdrawn by applicant, 08.11.1989.

89/1081 Erection of 142 500 sq. ft. non-food retail units and a 10 000 sq. ft. garden centre on the 10 acre site. Granted subject to conditions, 17.01.1990.

90/0965 Repositioning of the customer access road. Granted subject to conditions, 17.01.1990.

PROPOSAL

The application seeks detailed planning permission which involves the demolition of the existing unit (unit 7) and for the erection of two detached buildings, one to

accommodate a fast food restaurant with drive-through and the other to accommodate a gym.

The fast food restaurant would be sited within the eastern section of the application site boundary, and would sit some 10 metres from the back of the footpath along Bedford Road. The building would have primarily a rectangular footprint, with the narrow elevation presented parallel to Bedford Road. The building would have a flat roof and be 7.2 metres in height. Accommodation would be over two floors. The proposed building is shown as 13.0 metres wide by 25.7 metres long (including the porches at ground floor). It would have large overhanging eaves details at the roof.

The gym would be located to the west of the proposed restaurant and would have an irregular footprint which is best described as comprising of a rectangle with a triangle attached to it. The building would be 10.3 metres high, and at its widest 34.6 metres by 35.5 metres. A mezzanine floor would be installed which would in size be approximately 50% of the ground floor area.

In addition to the erection of the buildings, it is proposed to carry out changes to the existing layout within the retail park, to accommodate alterations to the car park, vehicular turning areas for servicing and infrastructure required in association with the proposed drive-through. Some of the engineering works are subject to a subsequent submitted planning application which is pending consideration, P130766, and will be dealt with under delegated powers following determination of this application.

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130766>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

In support of the application the following documentation was received:

1. Design and Access Statement (purely focused on the Restaurant element of the proposal).
2. Planning Statement (purely focused on the Restaurant element of the proposal)
3. Transport Assessment
4. Sequential Test
5. Aberdeen Retail Availability study

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee because there have been more than five letters of representation and an objection from the Community Council. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Projects Team - A Transport Assessment (TA) has been submitted in support of the application and this has been followed by extensive discussion and the submission of a number of technical notes. In summary no objections, but notes the following, a number of which matters are recommended to be secured by conditions.

Car Parking

At present the retail park has 496 car parking spaces. Following the development this will fall to 447 car parking spaces. In accordance with the Councils parking standards the proposal generates a maximum of 140 car parking space requirement. This would leave a total provision of 347 car parking spaces for the existing retail units, of which 194 are located in an overflow car park to the rear of the Park. The TA has demonstrated that overall there would be sufficient capacity within the site to accommodate the existing demand and that generated by the new development; however there would be an increased reliance on the overflow car park to the rear. Satisfied that there would be sufficient parking within the site and do not consider that the loss of parking spaces in the site would create an overspill problem to the surrounding street. However, pedestrian access to and from the overflow car park requires to be improved, and a condition should be attached that prior to occupation the developer identify and provide an acceptable pedestrian route to the overflow car park.

Awareness of the rear car park will be required as the TA identifies that increased use of it will be required. This should involve bold signing and lining throughout the car park and pedestrian areas. A review of the lighting and security arrangements in the rear car park area must be undertaken in order to alleviate any feeling of fear of lack of security that members of the public may have, this should be secured by condition.

Cycle and Motorcycle Provision

Cycle and motorcycle parking must be provided in accordance with the Councils parking standards, secured by condition. Showers, lockers and staff changing facilities should also be secured.

Vehicular Access

A number of traffic surveys have been undertaken. The March traffic survey has surveyed the queue on Bedford Road, and this has shown that, as expected, the currently queues extend past the service access to Kittybrewster on a number of occasions. For a number of reasons, and taking into consideration the impact reported, the Roads Projects Team considers that the development cannot be accommodated in its entirety on the current road network. The Councils committed Third Don Crossing scheme will introduce a bus gate on Bedford Road, reducing the amount of traffic onto this link. It is considered with the evidence submitted to the Planning Authority, that the fast food and drive-through restaurant can only be accommodated following the implementation of the Bedford Road bus gate associated with the Third Don Crossing. Recommend a

condition be attached to any consent that the restaurant proposed is not occupied until after the Bedford Road bus gate has been completed and is in operation. The increase in vehicular trips associated with the proposed gym is relatively small, and therefore satisfied that this could be accommodated on the local road network in its current condition, and therefore will not require to be phased.

Given the results of the Traffic Surveys it is considered that it is inappropriate that the development uses the current service access as a second general access point. The interaction of the queues from the Powis Place/ Bedford Road junction mean it would be difficult to turn right from the development, with potential implications to the wider road network. Given the increased use of the overflow car park there may be increased temptation for vehicles to try and use the service access, which would be unacceptable. Therefore request that the service access be formally identified as such, and a condition securing a means of preventing general vehicles from using this route and that this is carried out to the satisfaction of the Council.

Other

Satisfied with the servicing arrangements that have been identified.
A condition securing a Travel Plan is required for the development.

Environmental Health – no objections, subject to conditions.

Enterprise, Planning & Infrastructure (Flooding) - seeks clarification on surface water discharge

Planning Gain – no contributions are considered appropriate in this instance as one use class is being replaced with another.

Community Council Froghall Sunnybank and Powis– Objects. Comments are summarised as follows:

1. Concern about a 24-hour drive in to be open 24 hours a day, 7 days a week. Inappropriate in a retail park, everything else is closed and it is quiet after normal working hours. All night opening would increase traffic, noise, litter and anti-social behaviour.
2. The building would result in a loss of privacy.
3. Close to three schools, encourage childhood obesity.
4. Inadequate access and turning for large delivery vehicles at the loading bay.
5. Footprint of drive-in facilities (extended driveways) is a waste and misuse of valuable inner city space.
6. Extra traffic would break up the community.
7. Junction of Bedford Road and Powis Terrace already suffers traffic generation and pollution. Problems will be exacerbated with Third Don Crossing and proposed one way system.
8. Do not need another restaurant; existing facilities would be detrimentally affected.

REPRESENTATIONS

25 number of letters of representation have been received, objecting to the application. The objections raised relate to the following matters –

1. Opening hours 24 hours a day, 7 days a week (shops close at a reasonable time).
2. Attract crowds at night –intoxicated persons. Unsocial behaviour.
3. The road is currently at capacity
4. Additional traffic
5. Existing 20 mph speed limit is rarely enforced
6. Insufficient parking within the Retail Park has led to instances of on-street car parking outside dwellings on Bedford Road. Loss of residents parking.
7. The retail park at weekends is completely congested and access onto Bedford Road via the ramp difficult.
8. If propose to use the road to the west of Unit 7 the traffic at the lights would be a big problem.
9. Powis Place/Bedford Road development will increase traffic flow, frustrate locals with bus delays, and noisy vehicles stopped outside houses waiting to access the junction.
10. Road safety concerns for cyclists, including at the junction with Powis Terrace.
11. Encourage speeding/racing/use of car park at night
12. The proposal would increase numbers of HGV's in the area
13. Road safety- pedestrians, pets, children.
14. Litter
15. Increase in crime/ vandalism
16. Not in keeping with the area (the proposed use)/ Change the character of the area which is predominantly residential
17. Attraction to seagulls and vermin
18. Visual impact of a two storey building, which would be predominantly illuminated, affecting visual impact and views. Out of character.
19. Light pollution
20. Loss of privacy
21. Odour.
22. Noise – 24 hours; from cars; from HGV's; from pedestrians; from outside eating area; from plant on the roof. Currently park closes and barriers put in place, 24 hours will increase noise
23. Pedestrian safety. Lack of crossings in area.
24. Attract school children, particularly at lunch times. Against healthy eating. Children congregating on streets. Raises road safety concerns.
25. Questions raised about notification/publicity of the planning application
26. Same plans were proposed at Berryden, but legal action was taken which prevented it from occurring. We are now subject to this proposal as a community, and the community does not have money for a legal challenge.
27. Existing tenants will lose tenancy
28. Demolition of existing buildings will cause dust and noise.
29. Do not need additional amenities in the area, there are enough.
30. Impact on existing businesses

31. There are two drive-through's within 5 miles at Bridge of Don and Dyce, don't need another.
32. Errors in supporting statement, the existing units are occupied not vacant.
33. Object to the ethical considerations about the parent company.
34. Unacceptable that local residents were not notified in writing of the application.
35. Berryden Retail Park would be a more suitable location.

PLANNING POLICY

National Policy and Guidance

Scottish Planning Policy, 2010

Commercial centres are distinct from town centres as their range of uses and physical structure makes them different in character and sense of place. They generally have a more specific focus on retailing or on retailing and leisure uses. Examples of commercial centres include out-of-centre shopping centres, commercial leisure developments, mixed retail and leisure developments, retail parks and factory outlet centres (para. 54).

Investment to maintain and improve commercial centres should be supported where the centres are part of the network and where such investment will not undermine town centres (para. 55).

The evening economy should be encouraged and managed in appropriate centres to ensure life and activity outwith usual retail hours. When...deciding applications, planning authorities should consider the scale of the developments and their likely impact, including cumulative impact on the character and function of the centre, the amenity of nearby residents and anti-social behaviour and crime (para. 58).

The sequential approach should be used when selecting locations for all retail and commercial leisure uses unless the development plan identifies an exception. It should also apply to proposals to expand or change the use of existing developments where proposals are of a scale or form sufficient to change their role and function. The sequential approach requires that locations are considered in the following order:

- town centre,
- edge of town centre,
- other commercial centres identified in the development plan,
- out of centre locations that are or can be made easily accessible by a choice of transport modes (para. 62).

Where developments in commercial centres are not consistent with the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on the existing centres is acceptable. Out-of-centre locations should only be considered when:

- all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable,

- development of the scale proposed is appropriate, and
- there will be no significant adverse effect on the vitality and viability of existing centres (para. 63).

Scottish Planning Policy also promotes good design within development, and deals with topics including transport and parking, promotion of sustainable and energy efficient development, and waste management..

Aberdeen City and Shire Structure Plan

Provides a spatial strategy for development, to ensure the right development in the right place to achieve sustainable economic growth which is of high quality and protects valued resources and assets, including built and natural environment, which is easily accessible.

Aberdeen Local Development Plan

D1 - Architecture and Placemaking

To achieve high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting.

Policy C1 – City Centre Development – Regional Centre

Proposal for new retail...leisure and other city centre uses shall be located in accordance with the sequential approach referred to in the Retailing section of the Plan and in the relevant Supplementary Guidance: Hierarchy of Retail Centres.

Policy C2 – City Centre Business Zone and Union Street

The City Centre Business Zone is the preferred location for major retail development as defined in Policy RT1. Where sites are not available in the City Centre Business Zone, then sites elsewhere in the City Centre may be appropriate.

Policy T2 – Managing the Transport Impact of Development

New developments will need to demonstrate that sufficient measures have been taken to minimise the traffic generated. Reference is made to car parking standards.

Policy D3 – Sustainable and Active Travel

New development will be designed in order to minimise travel by private car, improve access to services and promote healthy lifestyles by encouraging active travel.

Policy RT1 – Sequential Approach and Retail Impact

All retail, commercial, leisure and other development appropriate to town centres should be located in accordance with the hierarchy and sequential approach as set out below and detailed in Supplementary Guidance: Hierarchy of Retail Centres:-

Tier 1 - Regional centre

Tier 2 - Town centres
Tier 3 - District centres
Tier 4 - Neighbourhood Centres
Retail Parks

Proposals for development on an edge-of-centre site will not be supported unless:

- the proposal is one that would have been appropriately located in the retail location to which it relates; and
- in the retail location to which it relates no suitable site for the proposal is available or is likely to become available in a reasonable time.

In all cases, proposals shall not detract significantly from the vitality or viability of any first, second, third or fourth tier retail location listed in the Supplementary Guidance: Hierarchy of Retail Centres, and shall accord with all other relevant policies of the Local Development Plan, including those relating to design, access and amenity. A Retail Impact Assessment may be required.

Policy RT2 - Out of Centre Proposals

Retail, commercial, leisure and other development appropriate to town centres, when proposed on a site that is out-of-centre, will be refused planning permission if it does not satisfy all of the following requirements:

1. No other suitable site in a location that is acceptable in terms of policy RT1 is available or is likely to become available in a reasonable time.
2. There will be no significant adverse effect on the vitality or viability of any retail location listed in Supplementary Guidance: Hierarchy of Retail Centres.
3. There is, in qualitative or quantitative terms, a proven deficiency in provision of the kind of development that is proposed.
4. The proposed development would be easily and safely accessible by a choice of means of transport using a network of walking, cycle and public transport routes which link with the catchment population. In particular, the proposed development would be easily accessible by regular, frequent and convenient public transport services and would not be dependent solely on access by private car.
5. The proposed development would have no significantly adverse effect on travel patterns and air pollution.

Policy R6 - Waste Management Requirements for New Development

Details of storage facilities and means of collection must be included as part of any planning application for development which would generate waste.

Policy R7 - Low and Zero Carbon Buildings

All new buildings, in meeting building regulations energy requirements, must install low and zero-carbon generating technology to reduce the predicted carbon dioxide emissions by at least 15% below 2007 building standards. This percentage requirement will be increased as specified in Supplementary Guidance.

Other

There are other policies (H1 Residential Areas and H2 Mixed Use Areas) which whilst not strictly applicable as the site is identified as a Retail Park within the development plan, nevertheless consider relevant factors in terms of impact on amenity. Policy H2 is for Mixed Use Areas, which this has similar characteristics. It is therefore considered that the principles of these policies are appropriate to ensure that development does not have an adverse impact on existing residential amenity.

Supplementary Guidance

- Hierarchy of Centres
- Infrastructure and Developers Contribution Manual
- Low and Zero Carbon Buildings
- Transport and Accessibility
- Waste Management

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Location within Retail Park

Scottish Planning Policy indicates that Retail Parks (Commercial Centres) are acceptable locations for retail and leisure forms of development. It also supports proposals which do not change the context of the Retail Park. The Council's Local Development Plan defines Retail Parks as 'a grouping of three or more retail warehouses with associated car parking', whilst there is no mention of leisure within the definition, there is also no steer that only retail forms of development would be acceptable. It is therefore considered that the proposal is not in conflict with the Retail Park, given the policies contained within the Development Plan and Scottish Planning Policy. The sequential approach assessment submitted by the agents demonstrates that there are no suitable sites for the proposed uses in any established centres which are sequentially preferable.

On this basis it is considered that the proposal is acceptable in terms of principle, subject to detailed considerations. The proposal is considered to comply with, or not be in conflict with, planning policies C1 (City Centre Development – Regional Centre), C2 (City Centre Business Zone and Union Street), RT1 (Sequential Approach and Retail Impact) and RT2 (Out of Centre Proposals), and Supplementary Guidance Hierarchy of Centres.

Representations submitted raise concerns relating to the suitability of the site, and recommend that the proposal should be sited elsewhere within the city.

However, there are no objections raised in planning policy terms to the location of the development at Kittybrewster Retail Park.

Supporting Statement

It is noted that within the submitted supporting statement that reference is made to Units 7 both being vacant. This is not however the case. The fact that the units are both in operation is not a material consideration in the assessment of this application in light of the relevant planning policies.

Transport

Based on the observations from the Roads Projects Team it is considered, subject to conditions, that there would be no adverse impact in terms of road safety or road network capacity. Conditions include phasing of the proposed development; improvements within the internal layout of the car parking areas, including improvements to the pedestrian access to the rear car park; and no general vehicle access of the 'service road'.

A number of the representations raised concerns in connection with issues related to traffic, including additional traffic, capacity of the road network, car parking, road safety, and pedestrian safety. It is noted however that the Roads Projects Team have raised no objections on any of these issues, subject to conditions which would provide any appropriate mitigation.

It is judged that it is both necessary and relevant to phase the timing of the occupation of the restaurant use with drive through because it is considered that the proposal as submitted would have an adverse impact on the existing road network if it were to be implemented in its entirety within the current road layout. It is considered that the proposed gym building would not have an adverse impact on the road network due to the anticipated vehicle numbers, and therefore there are no concerns relating to this element of the proposal. The fast food restaurant and drive through however, would contribute to the road network in an adverse way due to capacity issues. There are some reservations with regards to the mitigation works proposed by the applicants Transport Assessment, but the Roads Projects Team have sufficient evidence to be confident that post the next Bridge of Don Crossing and the Bus Gate, that the proposed restaurant use with drive through would not have an unacceptable impact on the road network. On that basis it is considered that the restaurant and drive through cannot be operational until the bus gate is fully operational. No specific dates can be given to this element of off-site works and therefore it is considered that any condition must refer to the physical works, although it is expected to be completed before the end of 2015.

It is considered that the existing Retail Park is well served by a frequent bus service. The proposal will involve a rationalisation of car parking spaces, but will include an enhancement of pedestrian access to the overflow car park secured by condition. A condition proposing additional cycle spaces and motorcycle

spaces should provide for alternative forms of travel, and showering and changing facilities for staff.

The Roads Projects Team has requested a Travel Plan, but given the nature of the proposals, a gym and fast food restaurant with drive through, it is not considered that this is appropriate. In terms of the uses they would operate 24 hours a day which would mean staff covering various shifts. The site is well served by public transport, and given the existing units, in this instance it is therefore not considered necessary for a Travel Plan.

On the basis of the above observations it is considered that the application is acceptable, and subject to conditions, complies with or is not in conflict with planning policies T2 (Managing the Transport Impact of Development); D3 (Sustainable and Active Travel); and supplementary guidance Transport and Accessibility.

Design

The two proposed building are considered acceptable in design terms for the setting of the Retail Park. The restaurant building would largely comprise of cladding, glazing, and grey blocks. Whilst there are no objections in principle, it is considered necessary to condition the finishes in terms of samples and colours. In relation to the proposed gym building the external finishes will closely match those of the existing retained units within the wider Retail Park, with brick base course and metal cladding above.

It is considered that the proposed development is acceptable, and would not be out of character within the Retail Park. The proposal is not in conflict with planning policy D1 (Architecture and Placemaking).

Impact on Residential Amenity

Noise and odour concerns are referred to in the section below, however there are other impacts to consider in terms of residential amenity.

The proposed restaurant would be some 22 metres from the nearest residential property on the south-east side of Bedford Road. The site is lower than Bedford Road by some 3 metres approximately in this part of the Retail Park. The proposed restaurant would be 7.2 metres in height to the top of the flat roof, which is 2.3 metres higher than existing Unit 7. Although the proposed building could be viewed from the residential properties along Bedford Road it is considered that there would be no loss of privacy or light because of the separation distance. The proposed gym would be taller at 10.3 metres in height but would be in excess of 50 metres away from the nearest residential property. The proposal therefore should have no adverse impact on residential amenity. It is acknowledged that any external lighting could potentially have an impact in terms of glare, and therefore it is considered prudent to apply a condition stating that no external lighting be installed unless otherwise approved in writing by the Planning Authority, to allow effective control over this.

The works pertaining to the demolition would be temporary. There are Health and Safety controls which relate to demolition works, and Environmental Health have some controls in relation to matters of noise and dust. An informative in terms of noise is proposed, as for reasons cited above it is not necessary or appropriate to control through planning condition. Whilst the demolition work is being undertaken there is an obligation for contractors to ensure it is complying with regulations relating to dust.

Noise and Odour

Environmental Health has noted that the footprint of the proposed new building would be closer to Bedford Road than that of the existing building. Environmental Health considers that the creation of a 24 hour drive through restaurant would result in an increase of vehicles using Bedford Road, including in the evenings and at night which has the potential to cause noise disturbance to the residential properties on Bedford Road; and that whilst at least three deliveries would occur to the site there is no indication of the time that these would be undertaken

Environmental Health also considered that there is the potential for noise from any plant associated with the operation of the restaurant, which is to be on the roof of the building. Although there is a statement indicating that any plant would be screened, it is not clear from the submitted plans. Furthermore, given that the application site is lower than Bedford Road there is the potential for odours from the production of food to have an impact on the surrounding area unless suitable and sufficient extract filtrated systems are fitted.

On the basis of the above considerations, Environmental Health recommends a number of conditions to mitigate against noise and odour. They recommend that the conditions include (i) details of ventilation systems and implementation; (ii) noise report, mitigation and implementation; (iii) suitable sound attenuation; (iv) refuse facilities; (v) litter bins; (vi) timing of deliveries and uplifts (vii) hours of building works.

In response point (i) recommended a condition which includes maintenance of the ventilation system, it is questionable if this could be enforced under planning control, and given Environmental Health's own powers, it is recommended that it is applied as an informative in the event of approval. Point (v) in terms of litter bins will be sought as part of a condition seeking external seating and decking arrangements. Point (vii) above is not considered a reasonable condition and therefore it is recommended that it is in the form of an informative because it can be controlled through Environmental Health. Point (vi) whilst a reasonable condition is considered impracticable. There are no restrictions on the existing units 7a and 7b, or on the remainder of the Retail Park in terms of timing of delivery. Whilst it is reasonable to consider the application of such a condition, and indeed the agent has advised that their clients would find this acceptable, any conditions imposed have to meet six tests as expressed in Circular 4/1998, and the willingness of an agent to a condition is not reasonable in itself.

Considering that a lorry could enter the Retail Park in any of the areas outwith the application site boundary and that it could sit and wait until it delivers, which could involve engines running, etc. and given that 24 opening hours means that vehicles could enter the site anyway, it is judged that there would be no valid reason to restrict servicing. Whilst it is desirable, it is not judged reasonable.

It is noted that a number of the representations raised concern in relation to the proposed 24 hour opening hours, which in turn could lead to increased noise and presence of people; concerns of noise, odour and litter. However, the proposal, subject to conditions, is not in conflict with residential amenity concerns, or planning policy R6 (Waste Management Requirements for New Development).

Drainage

The flooding team have sought information on the drainage of surface water. It is concluded that the drainage to the site would not alter from the existing, and it is noted that there would be no significant additional hard surfaces within the site, there are therefore no objections as it is judged that there would be no flooding issues arising.

Other Concerns Raised in Representations

There are no planning policies which seek to limit the opening of fast food restaurants in terms of proximity to schools in the interests of the health of children in order to reduce childhood obesity. It is considered that this is not a material planning consideration in the determination of this application because of the absence of such policies.

The impact on existing operators and/or existing tenants, and whether there is a need for an additional restaurant are not material planning considerations. The Planning Authority cannot refuse an application based on the 'ethics' or 'ethos' of a business. It must be the planning merits of the use which are considered not the operator or business.

A number of the objections refer to neighbour notification, these have come from those persons who would not have received individual notification from the Planning Authority, i.e. their premises are beyond 20 metres of the planning application site boundary. All neighbouring premises within 20 metres were notified, and an advertisement was put in the press. The Planning Authority has carried out notification in accordance with the Development Management Procedures.

Some representations state that the proposal would increase the number of HGV's in the area. It is not considered how this would be the case. There would be a degree of servicing for the proposed units, but this is considered no different to the existing units or the wider Retail Park. It is not considered this would be any different to the present situation. In any case, there are no objections to this element raised by the Roads Projects Team.

Reference is made to the fact that the existing 20 mph speed limit is rarely enforced. The proposal does not change this, nor is it reported that it is regularly breached.

The proposed uses may actually serve to detract speeding/racing as the proposed uses may increase patronage outwith the existing hours. The occupancy of the restaurant would be a form of surveillance. In any case, it is not considered that the proposed uses themselves would encourage speeding or racing. The use of the car park at night is likely to be more than would be the case generated by the existing units because of the increase in opening hours.

There is no evidence to suggest that the proposed uses would cause an increase in crime or vandalism. It may be the case that occupancy of the buildings would provide natural surveillance and detract such activity. In any case, the use itself is not considered to be associated with increased crime or vandalism.

The developer would be required to secure waste and recycling facilities. It is noted that the proposed restaurant occupier carries out litter picks within the locality of the existing restaurants. It is not judged that the proposal in itself would attract seagulls or vermin. Many restaurants operate within the town centre close to residential properties, this is not a reason to refuse the application. The occupier would have to ensure appropriate practices as a deterrent to avoid potential concerns arising from vermin which could threaten their own business.

Other matters

Policy R7 Low and Zero Carbon Buildings – all new buildings in meeting building regulation energy requirements must install low and zero-carbon generating technology to reduce the predicted carbon dioxide emissions at a level as cited in the Supplementary Guidance on Low and Zero Carbon Buildings. No details of Low and Zero Carbon Technology has been provided, however currently as stated, if a development complies with the Building Standards then it is in compliance with the supplementary guidance. It is therefore judged that it is not necessary to apply a condition. The proposal is not in conflict with planning policy R7 or Supplementary Guidance Low and Zero Carbon Buildings.

There are no planning gains contribution required for this particular application, the proposal is therefore considered to comply with Supplementary Guidance Infrastructure and Developers Contribution Manual.

It should be noted that research into the planning history has clearly established that although the garden centre was never implemented under planning reference 89/1081 which was granted on 17.01.1980 it cannot be implemented as its footprint has been largely built on by a retail unit. Any concerns that may arise relating to the possible subsequent construction of a garden centre at the Retail Park as a result of keeping the historic planning application has been clarified as it is not possible without the submission of any future applications, which would be considered on their own merits.

Conclusion

It is considered that the proposal is acceptable subject to conditions relating primarily to access issues, phasing of part of the proposal subject to completion and implementation of the Bus Gate, noise and odour control, and external materials, amongst other considerations.

RECOMMENDATION

Approve, subject to conditions.

REASONS FOR RECOMMENDATION

The proposed development, subject to conditions, complies with both national and local planning policies. Scottish Planning Policy indicates that Retail Parks (Commercial Centres) are acceptable locations for retail and leisure forms of development. It also supports proposals which do not change the context of the Retail Park. The sequential approach assessment submitted by the agents demonstrates that there are no suitable sites for the proposed in any established centres. On this basis it is considered that the proposal is acceptable in terms of the principle, and as such the proposal complies with, or is not in conflict with, planning policies C1 (City Centre Development – Regional Centre), C2 (City Centre Business Zone and Union Street), RT1 (Sequential Approach and Retail Impact) and RT2 (Out of Centre Proposals), and supplementary guidance Hierarchy of Centres. Subject to conditions relating to the phasing of the development, and improvements to the access points and internal layout, and securing of cycle and motorcycle spaces and infrastructure, it is considered that the proposed development complies with, or is not in conflict with, planning policies T2 (Managing the Transport Impact of Development); D3 (Sustainable and Active Travel); and supplementary guidance Transport and Accessibility. The proposed design of the development is acceptable, subject to conditions relating to external materials, and would therefore not be out of character within the Retail Park, the proposal therefore complies with planning policy D1 (Architecture and Placemaking). The proposal, subject to conditions securing noise assessments and mitigation and details of the waste and recycling areas, is not in conflict with residential amenity concerns, or planning policy R6 (Waste Management Requirements for New Development).

CONDITIONS

It is recommended that approval is given subject to the following conditions:-

(1.) The restaurant and drive through hereby approved shall not be occupied or brought into first use until the Bedford Road bus gate has been implemented in full and is in operation. – The existing traffic network cannot accommodate the extra traffic generated from the restaurant and drive through element of the proposal, as demonstrated within the submitted Transport Assessment and

Traffic Surveys submitted on behalf of the applicant. It is considered that the Bedford Road Bus Gate will free up the capacity needed on the road network.

(2.) No occupation of either building hereby approved shall take place until a detailed scheme which outlines measures to restrict vehicular access to the existing service access to vehicles which are service vehicles only has been submitted to and approved in writing by the Planning Authority, and implemented in full in accordance with the approved details. Thereafter the implemented scheme shall be retained at all times in accordance with the approved details. – In the interests of road safety and freeflow of traffic. The service access is close to the Bedford Road and Powis Terrace junction. The existing service access is signed, but general access can still be obtained to the detriment of the flow of traffic. The anticipated traffic levels from the development hereby approved are such that it is considered necessary to formalise the service access.

(3.) No occupation of either building hereby approved shall take place until a detailed scheme for a pedestrian access to the overflow car park from the main Retail Park has been submitted to and approved in writing by the Planning Authority, and implemented in full in accordance with the approved details. The scheme should consider pedestrian safety measures. Thereafter the implemented scheme shall be retained at all times in accordance with the approved details. – In the interests of pedestrian safety, road safety and freeflow of traffic. The Transport Assessment places a greater need on the overflow car park in terms of capacity. The existing overflow car park is difficult to access by pedestrians, a route is therefore required which is safe and convenient to use. The anticipated traffic levels from the development hereby approved are such that it is considered necessary to formalise a suitable form of pedestrian access.

(4.) No occupation of either building hereby approved shall take place until a detailed scheme which outlines measures to improve awareness of the overflow car park for car users has been submitted to and approved in writing by the Planning Authority, and implemented in full in accordance with the approved details. The scheme should consider bold signage and lining within the car park of the Retail Park. Thereafter the implemented scheme shall be retained at all times in accordance with the approved details. – In the interests of road safety and the freeflow of traffic. The Transport Assessment places a greater need on the overflow car park in terms of capacity. The existing overflow car park is not well signed and rarely used, measures are required to make drivers aware of its presence. The anticipated traffic levels from the development hereby approved are such that it is considered necessary to promote the overflow car park, to ensure adequate car parking capacity.

(5.) No occupation of either building hereby approved shall take place until a detailed scheme showing cycle parking spaces and motor cycle spaces, showering and changing facilities for employees within each building, in accordance with the Supplementary Guidance Accessibility and Transport, and a timetable for implementation has been submitted to and approved in writing by the Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details and thereafter retained at all times in

accordance with the approved details. – To promote alternative modes of travel, in accordance with the Supplementary Guidance: Accessibility and Transport and policy D3 Sustainable and Active Travel of the Local Development Plan.

(6.) No occupation of either building hereby approved shall take place until a detailed timetable for the phasing of the implementation of the car parking as shown on the approved plans has been submitted to and approved in writing by the Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details, and thereafter the car parking retained at all times in accordance with the approved details. – In the interests of road safety and the freeflow of traffic, to ensure adequate car parking provision within the Retail Park.

(7.) No occupation of the restaurant or operation of the drive through shall take place until full details of a scheme capable of filtering, extracting and dispersing of cooking fumes, has been submitted to and approved in writing by the Planning Authority, and implemented fully in accordance with the approved details. – In the interests of residential amenity.

(8.) No development shall commence on site until a detailed assessment of the likely sources and levels of noise arising within, and those audible outwith, the premises has been submitted to, and approved in writing by, the Planning Authority. The noise assessment shall be carried out by a suitably qualified independent noise consultant. All noise attenuation measures identified by the noise assessment which are required in order to prevent any adverse impacts on the amenity of residents in the surrounding area and as approved by the Planning Authority shall be installed prior to the first use of the building that the mitigation measures pertain to, unless the Planning Authority has given prior written approval for a variation. - To adequately mitigate against any potential noise issues arising, in the interests of residential amenity.

(9.) No development shall commence on site until a detailed scheme of hard landscaping for the sites has been submitted to and approved in writing by the Planning Authority, which scheme shall include the type and colour of materials. - In the interests of the visual amenity and for the avoidance of doubt.

(10.) No occupation of either building hereby approved shall take place until a detailed scheme of landscaping for the site has been submitted to and approved in writing by the Planning Authority, which scheme shall include proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting for. - In the interests of the visual amenity.

(11.) That all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in

writing for the purpose by the Planning Authority. - In the interests of the visual amenity of the area.

(12.) No occupation of either building hereby approved shall take place until a detailed scheme of the proposed boundary treatment has been submitted to and approved in writing by the Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details and thereafter retained at all times in accordance with the approved details. – For the purposes of clarification and in the interests of visual amenity.

(13.) No occupation of either building hereby approved shall take place until a detailed scheme showing bin storage and recycling areas, including timetable for implementation, has been submitted to and approved in writing by the Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details and thereafter retained at all times in accordance with the approved details. – In the interests of public safety, and in accordance with planning policy R6 (Waste management Requirements for New Developments).

(14.) No occupation of the restaurant building shall take place until a detailed scheme of the proposed external seating and decking areas has been submitted to and approved in writing by the Planning Authority. The scheme shall include provision of litter bins. Thereafter the scheme shall be implemented in accordance with the approved details and thereafter retained at all times in accordance with the approved details. – For the purposes of clarification and in the interests of visual amenity.

(15.) Notwithstanding the details submitted, full details of the external materials for each building hereby approved, including samples as may be required, shall be submitted to and approved in writing by the Planning Authority prior to the completion of the foundations of that building the materials are proposed for. Details shall include type and colour. Thereafter the development shall be completed in accordance with the approved details. – Although details have been submitted for external materials, their colour, texture and profile are not fully known. For the purposes of clarification and in the interests of visual amenity.

(16.) No occupation of the restaurant and drive through shall take place until the scheme as approved under planning reference 131509 has been implemented in full. – To ensure that the unit can be fully serviced, the servicing areas as shown in this approved application is unacceptable, and the scheme under planning reference 131509 is therefore required to be implemented.

(17.) No external lighting shall be installed, erected or placed within the application site boundary, except as otherwise may be approved in writing by the Planning Authority. Such details required for consideration by the Planning Authority will include the submission of the installation, type, intensity of illumination and location of lighting, including any hoods, and shall ensure that the throw of light is confined solely within the boundaries of the site. – No details of lighting were submitted with the application, for the purposes of clarification and the avoidance of any doubt, in the interests of visual and residential amenity.

(18.) For the avoidance of any doubt no free standing canopies or structures are hereby approved as part of this planning permission. – The plans submitted appear to indicate structures to the south and east side of the restaurant, within the drive through and access, of which no details have been submitted. For the purposes of clarification and for the avoidance of doubt.

(19.) For the avoidance of doubt, other than those shown on the plans hereby approved, no enlargement by way of extension, installation of a mezzanine floor, or other alteration to any of the buildings the subject of this permission shall be carried out without express planning permission first being obtained. – To enable the Planning Authority effective control. The design of the buildings are such that extra floorspace could be created without the requirement for planning permission, and as such the resultant impact upon the capacity of the road network and car parking requirements would not be considered to the potential detriment to road safety, the freeflow of traffic, and residential amenity.

INFORMATIVES

1. You are advised that the ventilation scheme as requested in condition 7 should conform with supplementary information and follows 'best practice' advice given by the Environmental Health Service. A system of regular maintenance for the aforementioned ventilation system should be submitted, to and agreed in writing, to the satisfaction of this the Environmental Health Service. Poor ventilation of ventilation systems can result in increased noise and the introduction of odour and can ultimately have a negative effect on the amenity of the residents living in close proximity to the application premises.
2. It is recommended that the proposed ventilation system be designed and installed following best practice as per the guidance contained within the following documents:
 - i. DEFRA, Control of Odour and Noise from Commercial Kitchen Exhaust Systems, Netcen/ED48285/Issue 1, 21 May 2004, Department of Environment, Food and Rural Affairs;
 - ii. HSE Information Sheet – Ventilation of Kitchens in Catering Establishments. Catering Sheet No. 10;
 - iii. DW 171, Specification for Kitchen Ventilation Systems – Heating and Ventilation Contractors Association (HVCA), (2005) ISBN 0-903783-29-0;
 - iv. CIBSE Guide B2: Ventilation and Air Conditioning, ISBN 00900953306, Chartered Institution of Building Services, 2001;
 - v. CIBSE Guide B3: Ductwork, ISBN 1903287200, Chartered Institution of Building Services, 2002.

3. You are advised to place adequate litter bins externally to facilitate waste disposal related to the development hereby approved .
4. You are advised that service deliveries/uplifts to and from the premises be restricted to occur only between the hours of 07:00 – 19:00 Monday to Saturday and 10:00 – 16:00 Sundays.
5. You are advised that in order to protect residents of the surrounding properties from any potential noise nuisance from the proposed development, building works should not occur:
 - out with the hours of 0700 –1900 hours, Monday-Friday inclusive;
 - out with the hours of 0800-1600 hours on Saturdays; and
 - no works should be audible out with the site boundaries on Sundays.
6. You are advised that the signage shown on the plans hereby approved does not form part of this approval. All signage is dealt with under the Control of Advertisement Regulations, and is not dealt with under legislation relating to planning control.
7. With regard to refuse storage, you should contact the Cleansing Client Section (Tel: 01224 489272) in order to discuss the number and size of bins required and the proposed location of any bin storage area.
8. In order to operate the premises after 11pm you are advised that a late hours catering licence under the Civic Government (Scotland) Act 1982 would also require to be applied for.

Dr Margaret Bochel

Head of Planning and Sustainable Development.