

## **WEST DUNBARTONSHIRE COUNCIL**

### **Report by Acting Executive Director of Housing, Environment and Economic Development (Housing and Regeneration Services)**

**Planning Committee: 2 October 2007**

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**DC07/284/REM: Erection of non-food retail development with associated car parking, access, services and landscaping (Reserved Matters) at land adjacent to St James Retail Park, Glasgow Road, Dumbarton, by Henry Lax Limited**

**DC07/285/FUL: Erection of non-food retail and leisure development with associated car parking, access, services and landscaping at land adjacent to St James Retail Park, Glasgow Road, Dumbarton, by Ritesol Limited and Henry Lax Limited**

#### **1. Development Details**

**1.1** This report relates to a planned extension to the St James Retail Park in Dumbarton, on a site which already has outline planning permission. Decision DC04/004, dated 3 November 2006, granted outline planning permission for a non-food retail development of 6,503m<sup>2</sup> (70,000 sq/ft) along with garden centre, builders' yard, parking, access, services and landscaping, and the applicant has already signed a Section 75 Agreement covering various improvements to the local road network. A related application (DC07/286) to vary a condition of the outline permission to allow the floorspace to be developed as seven medium sized units instead of two large ones is subject to a separate report to this Committee. The applicant now proposes to develop the site with seven retail units totalling 6,354m<sup>2</sup>, but with the potential for a leisure development within one of the units incorporating a mezzanine level. Two complementary detailed applications have been submitted.

#### **1.2 DC07/284/REM: Non-Food Retail Development**

This is a reserved matters application for 6,354m<sup>2</sup> of non-food retail development. This application addresses the design, layout, height and materials of the building and the access, servicing, car park and landscaping of the development. However it is dependent upon approval of DC07/286, as the proposal is for this to comprise seven units, varying in size from 465m<sup>2</sup> to 2090m<sup>2</sup>. These units would be arranged in two blocks, arranged in an 'L' shape and fronting a large car parking area. The buildings would be approximately 12-13m in height, although a raised feature corner would be around 15m high, and would be finished in powder coated aluminium and composite cladding, with extensive glazing and a brick basecourse. Service vehicle access to the rear of the new units would be by way of the existing service road to the rear of the adjacent 'ASDA' supermarket.

### **1.3** DC07/285/FUL: Non-Food Retail and Leisure Development

This application relates to Unit 3 of the development only, this being the unit located on the corner of the blocks. Under reserved matters application DC07/284, this unit has a retail floorspace of 2,090m<sup>2</sup>, but this application seeks full planning permission to build this unit with a mezzanine level and to use it as a mixed retail and leisure facility. This would result in 2,450m<sup>2</sup> of leisure facility and 1,730m<sup>2</sup> of non-food retail. The retail accommodation would occupy most of the mezzanine level, and would be a sports goods store (JJB Sports). The remainder of the mezzanine and all of the ground floor would be used as a commercial health and fitness club, incorporating a swimming pool, gymnasium and aerobics space. Externally, the only difference between this proposal and the corresponding part of application DC07/284 is the proposed provision of a small external plant room at the rear of the building. If Unit 3 is developed in this manner, the total floorspace for the entire development would be 5,994m<sup>2</sup> of non-food retail space and 2,450m<sup>2</sup> of leisure space.

### **1.4** The Committee will recall that two similar applications (DC06/404 and DC06/419) were refused at the Planning Committee meeting on 19 June 2007, for the following reasons:

1. The development is contrary to Policy DC1 of the Dumbarton District, District Wide Local Plan as the south facing gable of the building would be in close proximity to the rear of the existing residential properties at Park Street. The position of the building combined with its scale and height would have an overbearing effect on these properties and adversely affect their amenity.
2. The leisure use would be contrary to Policy DC1 of the Dumbarton District, District Wide Local Plan as it would result in an increase in noise over prolonged periods that would adversely affect the amenity of the nearby residential properties at Park Street.

The appellant has lodged appeals against these decisions, which have been conjoined with that for a related application (DC06/394), and are scheduled to be considered at a public local inquiry. As the decisions were contrary to the advice of officials, Members may be asked to appear at the public inquiry to explain the reasons for their decisions. The applicant has also now submitted three revised applications, the thirds of which (DC07/286) is subject to a separate report to this Committee.

### **1.5** The current detailed applications differ from the earlier applications in that the design and layout of the proposal has been amended to reduce the impact of the development upon dwellings in Park Street. Before submitting the revised applications, the applicant undertook direct consultation with neighbouring residents, including arranging a neighbourhood meeting in one of their homes. The amended scheme was prepared in order to address concerns raised by the neighbours, and the amendments to the previous scheme comprise:

- a) The leisure unit has been relocated from Unit 1 to Unit 3, so it would no longer be adjacent to any houses.
- b) The gable end of Unit 1 has been moved further away from the houses in Park Street. (It would now be 12m away from the garden boundary, instead of 7.2m as previously proposed).
- c) The rear service yard has been moved further away from Park Street. (9m from the boundary wall, which it previously abutted directly.
- d) The height of the gable of Unit 1 has been reduced from 12.2m to 11.3m. There had previously been some confusion amongst neighbours over the proposed height, as the plans showed height Above Ordnance Datum (sea level) rather than ground level.
- e) The row of car parking spaces along the boundary with Park Street has been deleted, resulting in a net loss of 36 spaces compared to the original scheme.
- f) The car park would feature a one-way system to minimise the chances of light from car headlights shining into neighbouring houses.
- g) The existing 2.4m timber fence along the boundary with Park Street will be replaced. Along the back of gardens, the new boundary treatment will be a close-boarded fence 2.4m high, with a 0.6m trellis on top, while adjacent to the existing play area there will be a 3m close boarded fence.
- h) A landscape strip, including trees and low-level 'jaggy' shrubs for security, will be formed along the entire length of the boundary with Park Street.
- i) The landscaped area adjacent to the gable of Unit 1 will be fenced off from the car park to prevent unauthorised access.
- j) The gable will be clad in plain white material, instead of the layered coloured cladding previously proposed.
- k) Cumulatively, these amendments have resulted in a reduction of 148m<sup>2</sup> in the development's floorspace.

## **2. Consultations**

- 2.1** West Dunbartonshire Council Roads Service has no objection to the proposals in principle, however the proposed level of car parking is substandard as a result of the removal of the parking spaces along the boundary with Park Street, and it is recommended that this be reinstated.
- 2.2** West Dunbartonshire Council Environmental Health Service has indicated that additional information is required in order to properly assess the proposed gas remediation, and conditions should be attached to limit construction noise.
- 2.3** Scottish Water has no objection to the proposals but indicates that the developer should bear the cost of any upgrading of infrastructure required as a result of the proposal.
- 2.4** Network Rail has no objection to the proposals but has indicated its requirements for works affecting its property, and these have been conveyed to the applicant.

- 2.5** SEPA have requested more information on flooding issues, and correspondence on this matter was still ongoing at the time of writing. It is anticipated that SEPA will recommend that planning conditions be imposed, and the wording of any such conditions would require to be agreed with SEPA prior to permission being granted.

### **3. Representations**

- 3.1** Representations have been received from 2 local residents. Neither representation objects to the principle of development. Their comments are summarised as follows:

- a) The proposed layout includes 2 car parking spaces adjacent to Unit 1 and close to 29 Park Street, which are suggested to be dangerous and liable to cause noise and disturbance. It is requested that these spaces be removed.
- b) The fence at the rear of the existing children's play area should be the same as the fence at the side next to the Asda car park, and should include wire reinforcing to prevent it being broken to create an unauthorised access into the retail park.
- c) An existing light in the Asda car park causes light to shine into nearby houses.

- 3.2** The applicant has indicated that they are willing to remove the two parking spaces referred to if required. However, these spaces are not dangerous, and they are located no closer to any house than is the access road, so noise issues are likely to be insignificant. The proposal does in fact involve a new 3m timber fence at the back of the play area, as requested by the neighbours. However, the applicant is reluctant to introduce wire reinforcement as this could pose a hazard to children in the event of the fence being vandalised. The light in the existing car park is not related to these applications, but the applicant has been made aware of the complaint.

- 3.3** One letter of objection has been received from a planning consultant acting on behalf of the owner of the Artizan Centre. Their objections relate primarily to the impact which retail development and the subdivision of the floorspace into smaller units would have upon the town centre. These issues are addressed in the report into application DC07/286. Grounds for objection relevant to the detailed applications are;

- a) the introduction of a leisure use to this site is inappropriate, as a town centre location would be more suitable for such a facility;
- b) the out of centre site will encourage unsustainable car use;
- c) the proposal would have an unsatisfactory relationship with neighbouring dwellings.

- 3.3** It is considered that the leisure facility would be an appropriate development for this location. The site is on the eastern edge of Dumbarton town centre, and its relationship to the town centre is not unlike that of the Council's own Meadow Centre. It would be well placed to serve the substantial new housing developments planned for east-central Dumbarton, and would be accessible

on foot and by public transport. The impact on neighbouring houses is considered acceptable as a result of the amendments detailed above.

#### **4. Assessment Against The Development Plan**

- 4.1** The majority of the site is identified as a Marketable Industrial Site in the Dumbarton District, District Wide Local Plan 1999, and Policy EMP1A of that plan indicates that such sites will be safeguarded for industrial uses so as to ensure a sufficient supply of employment land within the plan area. The western end of the site is identified as part of a Retail Development Opportunity site, and Policy R1A of the plan indicates that new retail development will generally be restricted to existing town centres and to the identified Retail Opportunity Sites. Policy R1B indicates that proposals for retail development on sites adjacent to defined town centres will be considered favourably where the impact upon the town centre will be acceptable and there are no suitable alternative sites within the town centre. The principle of developing the entire site for retail purposes was considered at the time of the outline planning application, and it was determined that this would be an appropriate use of the site, and that its impact upon the town centre would be acceptable.
- 4.2** Policy LR6 of the Dumbarton District, District Wide Local Plan 1999 encourages the development of new or improved indoor sports/recreation facilities.
- 4.3** Under the West Dunbartonshire Local Plan (Finalised Plan), the entire site is identified as being within a defined Commercial Centre, and the site is specifically designated as a Retail Development Opportunity site. Within Commercial Centres, Policy RET1A supports retail and leisure developments provided these do not undermine town centres. Policy RET3 indicates that designated Retail Development Opportunity sites represent the main sites for such development within the plan area, where retail development will be supported subject to compliance with other relevant policies. The appeal site is referred to in Schedule RET1 as having potential for 6,503m<sup>2</sup> of non-food retail development.
- 4.4** The retail development already has outline planning permission, having been found to be acceptable when assessed against these policies. The proposed leisure facility would accord with the policies of the adopted and emerging local plans, and is considered to be acceptable in principle.

#### **5. Assessment Against Material Considerations**

##### Impact upon residential properties

- 5.1** The reasons for refusing the earlier applications related entirely to the impact of the proposal upon neighbouring residential properties in Park Street. Since then, the applicant has undertaken a significant consultation exercise with the neighbours affected, and the design has been substantially modified to reflect

the wishes of the neighbours. As a result of this, only two letters of representation have been received from local residents, neither of which object to the principle of development, but which request relatively minor amendments. These issues are discussed in Section 3 above. It is considered that the proposals represent a substantial improvement over the previous schemes and that the reasons for refusal have been adequately addressed.

#### Principle of leisure use

- 5.2** The outline permission does not include reference to leisure development, and therefore this is a new proposal requiring full planning permission. When the previous application was considered by the Planning Committee, the only concerns raised about the leisure use were that if it were located within Unit 1 it could have an adverse impact upon the neighbouring houses. As a result, the current application has relocated the leisure facility to Unit 3 in order to address this issue. As noted in Section 3 above, Council policies are supportive of the provision of new sports and leisure facilities, and it is considered that this is an appropriate location for such a facility.

#### Consultations

- 5.3** The Roads Service has indicated that the proposed level of car parking would be substandard, largely as a result of the amendments which have been made to the previous scheme. A row of 37 spaces along the boundary with Park Street has been deleted in order to provide a landscaped buffer strip between the car park and the houses. The Roads Service recommends that these spaces be reinstated. However, it is considered that if the proposed level of parking provision does prove insufficient to meet demand, the excess parking will simply spill over into the existing retail park car park, and it is unlikely that it will have any effect upon the public road. The proposed car park is effectively an extension to the existing retail park car park, and all will be under common management. Under these circumstances, it is considered that the parking shortfall can be accepted.
- 5.4** SEPA and the Environmental Health Section have requested that additional information be provided on flood prevention and contaminated land, and that the means of addressing these issues be agreed prior to permission being granted. It is therefore recommended that authority to issue the decision be delegated to the Acting Executive Director of Housing, Environment and Economic Development upon satisfactory resolution of these technical issues.

## **6. Conclusion**

- 6.1** The principle of developing this site as an extension to the retail park has been established, and these two applications together seek detailed consent for such a development, along with the inclusion of an additional leisure facility. It is considered that these proposals represent an appropriate form of development for the site, and that the reasons for refusing the earlier applications have been fully addressed.

## **7. Recommendation**

- 7.1** Authorise the Acting Executive Director of Housing, Environment and Economic Development to **grant** approval of reserved matters (DC07/284), subject to the conclusion of technical consultations with SEPA and the Environmental Health Service, and to the conditions set out in Section 8 and such other conditions as may arise from said consultations.
- 7.2** Authorise the Acting Executive Director of Housing, Environment and Economic Development to **grant** full planning permission (DC07/285 ), subject to the conclusion of technical consultations with SEPA and the Environmental Health Service, and to the conditions set out in Section 8 and such other conditions as may arise from said consultations.

## **8. Conditions**

### DC07/284

1. The development hereby approved shall commence not later than 3 November 2011, this being 5 years from the date upon which outline planning permission was granted.
2. Prior to the commencement of development on the site, exact details and samples of all external materials and hard surfacing shall be submitted to and approved in writing by the Planning Authority. The development shall be implemented in accordance with these approved details.

NB This approval of reserved matters is to be read in conjunction with outline planning permission DC04/004, dated 3 November 2006 (as amended by decision DC06/394, dated [tbc]). All outstanding conditions attached to the outline permission still apply.

### DC07/285

1. The development hereby approved shall commence within a period of 5 years from the date of this consent.
2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), the leisure accommodation shall be used solely as an indoor sports/health and fitness facility, and shall not be used for any other purpose within Use Class 11 of that Order.
3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), the retail accommodation shall not be used for any food retailing purposes.
4. The development shall not be brought into use until such time as the vehicular access to the site and the agreed mitigation measures to the local road network have been brought into use. For the avoidance of

doubt, the aforementioned measures are those detailed in the Section 75 Agreement recorded under Land Register of Scotland Title Number DMB45388 and dated 20 October 2006.

5. The development shall not be brought into use until such time as the car parking and service vehicle access and turning facilities have been completed and made available for their intended purposes. These areas shall thereafter be retained for these purposes.
6. No construction activities involving works audible at the site boundary shall take place outwith the hours of 0800 to 1800 hours, Monday to Saturday inclusive, unless otherwise agreed in writing with the Planning Authority.
7. The measures recommended in the approved Dust Control Method Statement shall be implemented at all times during construction work, unless otherwise agreed in writing with the Planning Authority.
8. The developer shall ensure that vehicles leaving the site while construction is underway do not deposit mud or debris on the public road, and shall provide and maintain on the site such wheel washing equipment as may be necessary for this purpose.
9. Prior to the commencement of development on the site, exact details and samples of all external materials and hard surfacing shall be submitted to and approved in writing by the Planning Authority. The development shall be implemented in accordance with these approved details.

**Irving Hodgson**

**Acting Executive Director of Housing, Environment and Economic Development**

**Date: 21 September 2007**

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**Wards Affected:**

**Ward 3 (Dumbarton)**

**Background Papers:**

1. Planning application forms and plans;
2. Supporting documents;
3. Consultation responses;
4. Letter of Representation;
5. Planning Application No. DC04/004

**Person to Contact:**

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