

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Housing, Environmental and Economic Development

Planning Committee: 3 October 2012

DC12/131: Variation of condition 12 of outline permission DC04/004 as amended by planning permission DC09/211 to allow for the further subdivision of the proposed retail development at St James Retail Park by British Land Warehouse Ltd.

1. REASON FOR REPORT

- 1.1** This application relates to a proposal which is a major development and the Council also have an ownership/financial interest in the site. Under the terms of the approved Scheme of Delegation it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Grant** planning permission subject to the conditions set out in Section 9.

3. DEVELOPMENT DETAILS

- 3.1** This application relates to an area of vacant ground covering an area of 2.157 hectares adjacent to the St James Retail Park, Dumbarton. The land was originally part of a larger site which once contained a football pitch but it has been vacant for many years whilst the remainder of the land has already been developed. The site is approximately triangular in shape and is bounded by the rear gardens of housing in Park Street to the south, an Asda superstore and car parking to the west and a railway line on a low embankment curving around the north eastern boundary of the site. An open drainage ditch emerges from a culvert under the railway and cuts diagonally across the north western corner of the site before entering another culvert adjacent to the Asda store. Existing timber screen fences mark the boundary between the nearby housing and the retail park. The only means of access to the site is through St James Retail Park.
- 3.2** Outline planning permission for a non-food retail development of 6,503m² (70,000 sq.ft) along with a garden centre, builders yard, parking, access, services and landscaping was granted on 3 November 2006 (decision DC04/004). A subsequent application (DC09/211) was approved on 6 October 2009 which extended the time period for submitting an application for approval of matters specified in conditions and for the commencement of development. That permission is due to expire on 6 October 2012. The outline permission (DC04/004) was granted subject to condition 12, which stated:

“For the avoidance of doubt this consent authorises the construction of two units each of 35,000 sq.ft but does not authorise the sub division of either of the units hereby approved without the benefit of a separate planning consent.”

- 3.3** The outline permission therefore permits two units of 3252m² (35,000 sq.ft) to be developed. Since that permission was granted, a number of applications have been submitted seeking to retain the total floorspace of 6,503m² (70,000 sq.ft) but have it spread over seven units of varying sizes of between 465m² and 929m², with the largest unit proposed extending to 2090m². These applications were either withdrawn or refused by the Council, and the last such application was also refused on appeal following a public local inquiry. It was considered that the smaller retail units then proposed were more likely to compete with units in the town centre. The proposal was considered not to satisfy the sequential criteria for the location of new retail development, and to be likely to prejudice the regeneration of the town centre if it was allowed to take place before the Dumbarton Town Centre Masterplan was implemented.
- 3.4** This current application seeks to amend condition 12 in order to allow the floorspace to be provided as three units instead of two large units. It is proposed that one unit would be 3252m² (35,000 sq.ft) and two further units would have a minimum size of 1394m² (15,000 sq.ft) with the total consented floorspace of 70,000 sq. ft remaining unchanged. The applicant has referred to a minimum floor area in order to allow them a degree of flexibility in the actual size of the two units depending on the requirements of future tenants. This would allow both units to be either the same size (17,500 sq ft each), or one unit could be slightly larger(20,000 sq ft and 15,000 sq ft). The applicant has indicated at this stage that the units would include mezzanine floor levels, meaning that the ground floor of the development would cover 3716m² (40,000 sq.ft). Indicative plans have been submitted showing car parking to the south of the new building with the area to the east being identified as a potential future development site, with some sort of surface/landscaping treatment in the short term. The detailed layout and format of the proposed units would require to be the subject of a further detailed application and is not for consideration under this application. The applicant is not seeking to alter any of the other conditions attached to the original outline consent (DC04/004).

4. CONSULTATIONS

- 4.1** Argyll & Bute Council, Scottish Water, West Dunbartonshire Council Roads, Regeneration, and Environmental Health Services all have no objection to the proposal.
- 4.2** West Dunbartonshire Council Estates Service has no objection to the proposal but has requested that they be consulted on any future applications regarding the format or layout of the development.

5. REPRESENTATIONS

5.1 Dumbarton East & Central Community Council have submitted a letter in support of the application, whilst two further letters of representation have been received from local residents in relation to this application which both object to the proposal for the following reasons:

- There is the potential of overlooking of nearby residential properties from upper floor windows;
- The proposal does not comply with the local plan;
- The proposal will compete with and detract from Dumbarton Town Centre;
- Glasgow Road is the only access to and from St James Retail Park and it is already congested and causes pollution;
- The area is prone to flooding;
- There is a vacant unit in St James Retail Park which has been lying empty over the past year;
- Surveys carried out by the developer/agent area flawed and target worded;
- Changing the sequence of the traffic lights on Glasgow Road will not ease congestion or pollution;
- The development could lead to increased noise and vehicle fumes at nearby residential properties;
- The development could overshadow nearby residential properties; and
- The application was submitted at the Dumbarton fair.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

Glasgow and the Clyde Valley Strategic Development Plan (2012)

6.1 Dumbarton Town Centre is identified as a Strategic Centre in the Strategic Development Plan's Network of Centres. The proposed development does not specifically support the Spatial Development Strategy of the SDP so is subject to a sustainable location assessment set out in Diagram 4 of the Plan. In relation to the Network of Centres, this requires an assessment of whether the proposed development: respects the scale of the centre; supports the network of centres; and does not impact unacceptably on Glasgow City Centre. In this case it is considered that the proposed development is appropriate in scale as it is addressing a recognised leakage of expenditure from the Dumbarton catchment, supports the network of centres by complementing the retail offer of Dumbarton Town Centre, and will not impact significantly on Glasgow City Centre. In relation to other criteria in the sustainable location assessment, the proposed site is brownfield and can be accessed by public transport. The proposed development is considered to be in a sustainable location and meets a known need/demand.

6.2 Strategy Support Measure 11 requires Local Development Plans to manage and develop the network of strategic centres. In particular, provisions should be made to arrest the decline of traditional town centres. Dumbarton town centre is identified as a strategic centre and future actions that are identified include the promotion of retail and residential opportunities, new/refurbished retail floorspace, linkages to the waterfront and improved accessibility. Issues in relation to the impact on Dumbarton Town Centre are considered in Section

7 below. Overall it is considered that the proposed development would be in accordance with all relevant policies of the Strategic Development Plan.

West Dunbartonshire Local Plan (2010)

- 6.3** The site is located within a commercial centre and is identified under Policy RET4 as a retail development opportunity for 6,503m² of non-food retail floorspace. This policy states that such sites are the main sites for retail development, and that such development will be supported subject to compliance with other relevant local plan policies.
- 6.4** Policy RET1 requires the adoption of a sequential approach to site selection for new retail development, with first preference being given to town centre sites, second preference to edge of centre sites, third preference to commercial centres, and last preference to new out of centre locations. The application site is within a commercial centre which is itself located on the edge of the town centre. The site therefore falls within the 'second preference' category, and it is necessary to consider whether any sequentially preferable sites exist within the defined town centre.
- 6.5** Policies RET2 and RET2A set out the approach to be taken in relation to retail and leisure developments in edge of centre and commercial centre locations respectively. Policy RET2 lists criteria for proposals in edge of centre locations to be considered against, including: whether the proposal can be supported by the catchment's population, effect on the vitality and viability of existing centres; accessibility by public transport; availability of suitable alternative existing town centre sites and whether it would remedy any quantitative or qualitative deficiencies in the existing retail provision.
- 6.6** Policy RET2A supports retail developments in identified commercial centres where their function complements that of other centres, having particular care not to undermine town centres. The policy confirms that the St James Retail Park will be treated as an 'edge of centre' location.
- 6.7** The application is assessed against all of the above policies in Section 7 below, and it is concluded that the proposal would be in compliance with all of these policies.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

Scottish Planning Policy

- 7.1** Scottish Planning Policy (SPP) states that commercial centres are distinct from town centres as their range of uses and physical structure makes them different in character and sense of place from town centres. They generally have a more specific focus on retailing or on retailing and leisure uses. Investment to maintain and improve commercial centres should be supported where the centres are part of the network of centres and where such investment will not undermine town centres. SPP generally favours and encourages retail development within town centres or the next sequentially preferable location. SPP requires retail development to be accessible by

walking, cycling and public transport. The application is assessed sequentially in Section 7.2 – 7.6 below.

Sequential Approach to Siting of Retail Development

7.2 The St James Retail Park is identified as a commercial centre and within it the application site is specifically designated as a Retail Development Opportunity site. In addition to the retail park being identified as a commercial centre, it is also identified as an edge of centre location for sequential purposes. The original outline application (DC04/004) was judged to satisfy the sequential test at the time due to a lack of other sites suitable for very large footprint units. The current application seeks to retain one unit of 3252m² (35,000 sq.ft), which would be in accordance with the outline planning consent and is therefore judged to be acceptable, but the balance of 3252m² (35,000 sq.ft) would be divided between two units each with a minimum floor area of 1394m² (15,000 sq.ft), and the availability or otherwise of alternative sites suitable for these smaller units requires to be considered. Additionally, the West Dunbartonshire Local Plan 2010 has altered the town centre boundary since the outline permission was granted. The current proposal therefore requires a sequential justification, and there are three sites within the defined town centre which are potentially suitable for new retail development:

- Reconfiguration and/or extension of the Artizan Centre;
- The wider town centre regeneration proposals suggested in the Dumbarton Town Centre Masterplan; and
- Part of the former Allied Distillers site on Castle Street.

7.3 The Artizan Centre is an existing shopping centre with a high rate of vacant units, but the current unit sizes within the centre are not as large as those proposed by this application. The centre has recently changed ownership, and the previous owner had plans for the extension of the centre including the provision of some larger units, but these proposals pre-dated the current recession and were never brought forward. The new owner has a current planning application (DC11/236) which seeks to refurbish the Artizan Centre primarily by enclosing it with an overall roof and entrance doors. In effect the proposal would convert College Way into an indoor shopping centre. That application does not seek to extend the Artizan Centre or to significantly alter unit sizes. Therefore the Artizan Centre, both in its current form and in the proposed refurbished form, would not provide an alternative location for large units in the 1500m²+ range sought by this application.

7.4 There are two sites close to the Artizan Centre which are identified in the local plan as retail opportunities, having emerged from the Dumbarton Town Centre Masterplan. Site GD2(18) is located directly to the north of the Artizan Centre and is identified as a retail and business redevelopment opportunity. That site was envisaged by the Masterplan as being suitable for a large foodstore with decked parking, which were judged desirable to give the town centre an anchor foodstore. However, the site continues to be partially occupied by a bingo hall and bowling club, and no planning applications have been submitted for the site. In view of this it is considered that there is little prospect of this site being developed for retail purposes in the short to

medium term, and in the event that it did become available it would be desirable that it be used for an anchor foodstore rather than further non-food units. The other site, RET4(6), is a relatively small area which was identified as an extension to the Artizan Centre, but does not form part of the current refurbishment proposals. The Town Centre Masterplan is in the process of being revisited in order to assess whether its proposals remain realistic, and the Main Issues Report for the forthcoming Local Development Plan proposes that neither of these two sites be carried forward into the new Local Development Plan. Overall, it is considered that these sites do not currently form viable sequentially preferable locations for the type of units proposed.

- 7.5** The other potential retail site located within Dumbarton town centre is on the eastern part of the former Allied Distillers site on Castle Street. That site has outline permission for 6,503m² (70,000 sq.ft) of retail development, and that permission was already in place at the time when outline permission was granted for the application site. It also has a separate outline permission for a primarily residential development incorporating only a small amount of retail floorspace. The Castle Street site is identified in the local plan under GD2(14) and H1(10) as representing a mixed use opportunity for housing, retail and public services, and a particularly high standard of urban design is required for any development proposals on this site. The retail permission was granted over 12 years ago, and such detailed design proposals as have emerged over that period have been rejected due to urban design concerns. There are currently no detailed proposals for the development of the site, and discussions with the owner have covered a wide range of possible uses. Therefore, whilst in theory the outline planning consent for the Castle Street site could accommodate units of the floorspace proposed at the St James Retail Park, this may be difficult to reconcile with the urban design aspirations, and in any event despite the outline permission it is not clear whether the site will actually be developed for non-food retail at all given the previous permissions and discussions. It is therefore not considered reasonable to resist the alterations to unit sizes at St James Retail Park on the basis of the theoretical possibility of similarly sized units being provided at Castle Street.

- 7.6** Overall, it is therefore considered that none of the alternative sites in the defined town centre locations are capable of providing units of the size and type proposed within the immediate future, and that there are therefore no viable sequentially preferable locations for the proposed development.

Impact on Existing Town Centres

- 7.7** A retail impact assessment (RIA) was submitted at the time of the original outline permission and the impact of the development on existing town centres was considered at that time and judged to be acceptable. For the current application the applicant has provided a statement which demonstrates that the impact of the development if provided as three units would not be appreciably different from that of the same floorspace being provided as two units. It is anticipated that a very large proportion of the turnover of the new retail units would be drawn from claw-back of existing expenditure which is currently lost from the town to other retail destinations such as Braehead, Glasgow city centre and Clydebank, and the impact upon

Dumbarton town centre traders would be modest. Likewise the development is likely to capture some trade which is exported from towns further out from Glasgow (particularly the Vale of Leven and Helensburgh) to these destinations, but it is not likely to have any significant impact upon the town centres of these towns.

7.8 It must be recognised that the low level of impact on the existing town centre retailers is to some degree a result of the limited nature and number of retailers remaining within Dumbarton town centre. There are relatively few retailers left in the town centre who are likely to suffer direct competition from large national companies that are expected to locate in the proposed development. It is therefore perhaps more relevant to consider the proposal's impact upon the potential for regeneration of the town centre. This was a particular issue for the Reporter who determined the appeal against the previous refusal of permission for seven units. The reporter considered that the level of expenditure leakage from Dumbarton was so great that there was capacity for both the Town Centre Masterplan proposals and the development of the application site, but he felt that the town centre needed to be redeveloped first as direct competition from similarly sized units in the St James Retail Park would make it harder to secure investment in the town centre. In terms of the current proposal, the units proposed are significantly larger than any which are likely to be achieved within the town centre in the foreseeable future, but this does not mean that they would not compete. The presence of a large clothing retailer (for instance) in the St James Retail Park may make smaller units in the town centre less attractive to other clothing retailers. Nonetheless, the existing level of expenditure leakage from the town to locations such as Braehead is very significant, and since the time of the previous appeal the prospects of major new floorspace being provided within the town centre have receded. On balance it is considered that adding to the St James Retail Park would not seriously prejudice any future retail development in the centre of Dumbarton, which remains a priority of the Council and the proposal would claw back expenditure leakage in the short term.

7.9 It is therefore accepted that the proposed reconfiguration of the previously approved floorspace from 2 units to 3 units would make no significant difference to its impact upon Dumbarton town centre, or the centres of other nearby towns. It is further accepted that the impact of 6,503m² of non-food retail floorspace, however configured, upon these town centres is likely to be limited as the main impact of the development will be to claw-back the existing very high level of expenditure leakage which is lost to the town. Whilst the expansion of the St James Retail Park does not contribute to the regeneration of the town centre, it is considered that it would not prejudice any imminent retail investment or the longer term regeneration of the centre.

Environmental and Amenity Issues

7.10 The transport, infrastructure and environmental impacts of the proposed development have not changed significantly since the previous permission, when they were considered acceptable. The retail park is located close to the town centre and is readily accessible on foot or by public transport, and the

changes to unit sizes would not significantly alter the anticipated level of traffic. The various amenity concerns raised by residents are similarly not directly related to how the floorspace will be divided, and are issues which would be properly considered in the context of an application for approval of matters specified in conditions.

- 7.11** If permission is granted for removal of the condition this will also have the effect of extending the duration of the outline permission for a further three years. The previous condition was subject to numerous conditions covering technical and amenity issues, and it is considered that these adequately address all such matters. There has not been any material change in circumstances since that time which would warrant significant alteration to these conditions.

8. CONCLUSION

- 8.1** Outline planning permission for two very large retail units has previously been granted and the existence of that permission is a substantial material consideration. The current application differs only in that the same total floorspace would instead be provided as one very large unit and two smaller units (which would in themselves still be relatively large). No sequentially preferable sites for units of these sizes have been identified as being viable in the foreseeable future, and it is considered that the impact of the development on existing town centres would not differ significantly from that of the earlier permission, the impact of which was judged to be limited and acceptable. Development of the site for large retail units would be consistent with its allocation in the local plan, and would help to draw back some of the very high level of comparison expenditure which is leaked from the town. Overall, the proposal is considered to be in accordance with all relevant policies of the development plan, and it would enable the development of this vacant site at St James Retail Park and remove some of the uncertainty which has affected retail investment decisions in Dumbarton over the last few years.

9. CONDITIONS

- 1. Application(s) for the approval of the detailed design of the development (hereinafter called “the matters referred to in conditions”) shall be submitted to the Planning Authority within 3 years of the date of this decision notice, or (if later) within 2 years of the refusal of such an application (where that application was submitted within 3 years of the date of this decision notice, and subject to there being only one subsequent application). Such application(s) shall include:**
 - a) Site layout plans showing the position of all buildings, roads, footpaths, parking areas, walls, fences and landscaping**
 - b) Plans of each building showing its elevations and floor plans**
 - c) Details of existing and proposed ground levels and finished floor levels**

- d) **Details of external finishing materials**
 - e) **Details of the means of drainage and sewage disposal**
2. **Full details of the foul and surface water drainage system, shall be submitted at the same time as any application for the approval of Reserved Matters referred to above for the approval of the Planning Authority. The drainage system shall incorporate the principles of sustainable Urban Drainage Systems within its design.**
 3. **The development shall be landscaped in accordance with a scheme which shall be submitted to and approved by the Planning Authority before development commences. The scheme shall indicate the siting, numbers, species and heights (at the time of planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earthmounding, and shall ensure:-**
 - (a) **completion of the scheme during the planting season next following the completion of the building(s), or such other date as may be agreed in writing with the Planning Authority.**
 - (b) **the maintenance of the landscaped areas for a period of five years or until established, whichever may be longer.**
 - (c) **any trees or shrubs removed, or which in the opinion of Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.**
 4. **At the same time as the first application for approval of the Reserved Matters referred to above full details of the design and location of all fences and walls to be erected on the site shall be submitted for the consideration and written approval of the Planning Authority.**
 5. **At the same time as the first application for approval of the Reserved Matters referred to above full details of all hard surfacing to be provided on the site shall be submitted for the consideration and written approval of the Planning Authority.**
 6. **At the same time as the first application for approval of the Reserved Matters referred to above, a comprehensive contaminated land investigation report shall be submitted together with a remediation strategy to treat, make safe and/or remove any existing contamination on the site.**
 7. **Construction works shall be limited to between 08.00am to 6.00pm Monday to Saturday only with no site preparation or construction works on a Sunday.**

8. At the same time as the first application for approval of the Reserved Matters referred to above, a method statement for the prevention of nuisance from dust during dry weather conditions shall be submitted for the written approval of the Planning Authority.
9. No unit hereby approved shall be brought into use until the vehicular access to the site and the necessary mitigation measures to the road network, agreed as a result of final consideration of the Transportation Impact Assessment, have been implemented to the satisfaction of the Planning Authority. These mitigation measures should show that the proposal brings no net detriment to the road capacity on the A.814.
10. The applicant/operator shall provide and maintain on the site suitable means for the washing of vehicle wheels at all times during the hours of operation to prevent mud being deposited on the public road.
11. The development hereby permitted shall be used solely for uses within Class 1 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and for no other purpose. The use shall further be restricted to non-food retailing only.
12. The total floorspace allowed by this consent is 6503m² (70,000 sq.ft) divided between three units, which shall comprise one unit of approximately 3252m² (35,000 sq.ft) and two further units with a minimum size of 1394m² (15,000 sq.ft). No further subdivision of these three units may take place without the benefit of a separate planning consent.

Elaine Melrose
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and Economic Development
Date: 17 September 2012

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Appendix: None.

Background Papers: 1. Application forms and plans;

2. Consultations responses;
3. Letters of representation;
4. Planning Applications DC04/004 & DC09/211;
5. West Dunbartonshire Local Plan 2010;
6. Glasgow and the Clyde Valley Strategic Development Plan (2012);
7. Scottish Planning Policy; and
8. The Main Issues Report.

Wards affected:

3 (Dumbarton)