

Appeal Decision Notice

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Decision by David Buylla, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-390-2010
- Site address: land 100 m north of Dunblane Cemetery, Young Road, Barbush, Dunblane, FK15 0NY
- Appeal by Gladman Developments Ltd against the failure of Stirling Council to determine an application for planning permission in principle 11/00012/PPP dated 13 January 2011 within the prescribed time
- The development proposed: class 4 business use, petrol filling station, class 1 retail store with associated access, car parking, associated works and environmental improvements
- Application drawings: 3440-p2-01; p2-02D; p2-03; p2-04; p2-05; p2-11; p2-21; p2-22;
- Date of site visit by Reporter: 3 October 2011

Date of appeal decision: 3 February 2012

Decision

I allow the appeal and grant planning permission in principle subject to the 17 conditions listed at the end of the decision notice. Attention is drawn to the three advisory notes at the end of the notice.

Reasoning

1. Having regard to relevant provisions of the development plan, the main issues in this appeal are as follows:

- the appropriateness of the proposed mix of uses on a Strategic Employment Opportunity site;
- whether the scale of the retail element of the proposal is appropriate;
- whether retail development could be accommodated on any sequentially preferable sites;
- the proposal's implications for the vitality and viability of Dunblane town centre; and
- the implications of and for the emerging local development plan (LDP).



The appropriateness of the proposed mix of uses on a Strategic Employment Opportunity site

2. The appeal site is designated a Strategic Employment Opportunity in the Stirling Local Plan (1999 with Alteration 1A in 2007) (the local plan). Policy ED1 directs proposals for major business and industrial development to such locations. In respect of the appeal site specifically, it identifies class 4 uses as preferred, and requires development to be in accordance with existing planning consent and Development Guidelines. Non business / industrial uses will not normally be permitted unless ancillary and part of a master-planned mixed use scheme.
3. The site's existing planning permission, which has not been implemented, is for class 4 office pavilions. The class 4 element of the current proposal would be consistent with this and would accord with Policy ED1. However, because of their scale, it would be inaccurate to describe the proposed supermarket and petrol filling station elements as ancillary to the proposed class 4 development. Therefore those elements of the proposal would be inconsistent with this policy.
4. Policy ED3 of the local plan permits the redevelopment of current or vacant employment sites for other uses where three criteria are satisfied.
5. Criterion a) requires the site to have been unsuccessfully marketed for employment purposes for a period of 12 months. The appeal site has been marketed in this way for well in excess of this period. This generated a degree of market interest in office development, but not enough to support the entire site being developed for class 4 purposes. I am satisfied from the appellant's evidence that the marketing requirements of criterion a) have been satisfied and that there is no demonstrated market interest in developing the site for 100% class 4 use.
6. Criterion b) deals with amenity and sustainability concerns, which I am satisfied could be addressed in the submission of an application for approval of matters specified in conditions.
7. Criterion c) requires it to be demonstrated that the site is no longer required to secure a strategic and local land supply. The appellant contends that the authority's Business Space Strategy 2010 identifies an unrealistically high need for employment floorspace, which is based on projections of average annual take up of land that are overly optimistic. This is argued to be particularly so given the current economic climate, which has reduced demand to a level that has effectively halted any speculative class 4 development in the short to medium term. The appellant contends that developing only one of the planning authority's identified employment sites (Forthside), when added to the existing supply of office accommodation, would provide a seven year supply of such accommodation, based on the annual average take-up of office space over the past five years. The planning authority has not refuted these assertions.
8. The appellant's examination of employment land supply considered the overall level of available employment land rather than focussing on the availability of land within

Strategic Employment Opportunity sites. There are only eight such sites identified in Policy ED1 and some of these have already been developed. It is possible therefore that the apparently very healthy supply of employment land overall is not reflected in the availability of the larger, strategic sites.

9. In order to consider whether an assessment of the general availability of employment land, rather than of identified strategic sites specifically, provides sufficient demonstration that the site is no longer required for its designated purpose, it is necessary to consider why this site was identified as having strategic significance. Some sites might be identified as having strategic importance because they could accommodate a specific form of development that could not be provided elsewhere or because their location was such that they could meet future expansion requirements of an important local employer. There is no evidence of any such factors being responsible for the identification of the appeal site as a Strategic Employment Opportunity and its identification in such terms appears to be simply a reflection of its size.

10. The development requirements and preferred uses for the appeal site that are set out in Policy ED1 are for class 4 development. This type of development could take place on other, non-strategic sites, albeit at a smaller scale. That being the case, when there are so many other opportunities to provide such development elsewhere, when past rates of business space take up across the Stirling Council area have been low and when there has historically been no developer interest in developing this site as a large office complex, even before the current recession, I am satisfied that the site is no longer required to secure a strategic and local employment land supply, as required by criterion c).

11. I therefore conclude that the proposal is supported by Policy ED3 and that, despite the conflict with Policy ED1, the principle of the proposed mix of uses is in accordance with the development plan.

Is the scale of the retail element of the proposal appropriate?

12. Policy S4 of the structure plan permits supermarket development where, in addition to satisfying the sequential approach and maintaining the vitality and viability of the centre (discussed later in this notice), its scale is commensurate with the size of the local community to be served. Policy ED12 of the local plan is consistent with this approach. The policy does not specify how an assessment of scale should be carried out, but in accordance with SPP, I conclude that this requires a consideration of both qualitative and quantitative factors.

13. The proposed supermarket would have a gross floor area of 3,900 square metres. The proposal seeks planning permission in principle so there is no finalised layout. There is also no named supermarket operator that is contractually committed to the development. The appellant's retail impact assessment (December 2010) assumes a 60% net to gross ratio, which would give a net floor area of 2325 square metres. Of this, 70% (1628 square metres) has been assumed to be devoted to convenience trading with the remaining 698 square metres for comparison goods. These ratios are typical of supermarkets of this size and are a reasonable basis on which to assess the proposal.

There is no dispute amongst the parties over the scale of the proposed comparison floorspace. I have therefore concentrated on the convenience element of the proposal.

14. In addition to the appellant's and planning authority's retail evidence, I have been provided with retail assessments that were prepared to support alternative supermarket development sites in Dunblane (which are discussed later in this notice). The size of those proposed stores is comparable to the appeal proposal and the study areas used in the retail assessments are also similar. Therefore, in order to obtain the broadest possible picture of the capacity to accommodate the proposed supermarket and its likely impact, I have taken these assessments into account.

Qualitative justification

15. The parties are generally in agreement that it is unusual for a town the size of Dunblane not to have a supermarket of the size that is currently proposed. The various retail assessments disagree about the precise level of convenience expenditure leakage from the catchment, but there is general agreement that significant numbers of Dunblane residents are travelling to Stirling (and to a lesser extent Perth) to undertake their convenience shopping. It is also generally agreed that this is due to the lack of a food store in Dunblane that is large enough to offer all of the products that many consumers would expect to purchase in a main food shopping trip.

16. The proposed supermarket would not offer a comparable shopping experience to a large superstore, such as those in Stirling, but would be likely to satisfy the main food shopping requirements of a far greater number of residents than the existing convenience retail offer in Dunblane, which comprises a small Tesco Metro, a Marks and Spencer Simply Food and a few independent retailers. It is therefore likely to reduce significantly, the numbers of shopping trips that are made from Dunblane to other locations. The proposed petrol filling station would also reduce the need for Dunblane residents to travel in order to buy fuel.

17. The need for Dunblane residents to travel outwith the local catchment for their convenience shopping and fuel needs is disadvantageous to those residents and is also inconsistent with the aspirations in SPP to reduce the need to travel. By addressing this issue, the proposal would provide tangible qualitative benefits. The planning authority's retail consultant accepts that the proposed store would provide a major qualitative upgrade to Dunblane's existing food store provision.

18. Additional qualitative benefits, in the form of improved consumer choice and increased competition, might be secured if the proposed store were operated by a retailer not already represented locally. Sainsbury's has confirmed that it is interested in the site. If it operated the proposed store, there might be increased competition with the Tesco Metro store, which could be expected to benefit local consumers. However, as no party is contractually committed to its development, it cannot be assumed that the proposed store would introduce a new operator to the local convenience market. I can therefore attribute little significance to this aspect of the qualitative argument.

19. Nevertheless, I agree with the appellant that there is a strong qualitative case for the provision of a supermarket that is large enough to meet the main food shopping requirements of a significant proportion of local residents and provide a petrol filling station for the town. However, in accordance with SPP, it is necessary also to consider whether there is a convincing quantitative justification for a store of this size.

Quantitative justification

20. Because the quantitative assessment process requires assumptions to be made and professional judgement to be exercised at each stage, the output from such assessments must be regarded as a professional opinion of the capacity to accommodate a proposal, rather than an absolute calculation of capacity. In considering the various sources of quantitative evidence, I have looked at the assumptions that have underpinned the headline figures in order to assess their reliability.

21. The planning authority's retail consultant points out that the proposal's convenience turnover would be approximately the same as the turnover of all of the town's existing convenience floorspace. It would therefore introduce a significant change in the provision of convenience retailing in the town. If there is insufficient capacity in quantitative terms to justify such an increased level of convenience shopping, then the risk of harm to the vitality and viability of the town centre could potentially be increased.

22. The appellant's retail assessment considers two alternative scenarios. One assumes that Tesco would occupy the proposed store and would relocate from the existing Tesco Metro store, which is at the edge of the town centre. The second assumes that the store would be occupied by one of the main foodstore operators and that the existing Tesco Metro store would continue to trade. The identity of the occupier of the proposed supermarket is not yet known, so it cannot be assumed that the Tesco relocation scenario would occur. However, it also cannot be ruled out. I have therefore considered both scenarios when assessing whether there is capacity for the proposed development.

23. The assessment uses a primary catchment from which 90% of the proposed store's trade would be drawn and a wider secondary catchment, which would account for the remaining 10% of trade. These catchments were defined using existing trading patterns that were identified in a household survey, undertaken in support of one of the alternative supermarket proposals (discussed later in this notice). Account was taken of the ability of the proposed store to compete with others in and around the study area. The result is a primary catchment that is quite tightly drawn around Dunblane and its immediate rural hinterland and a secondary catchment that encompasses a wider rural area but is limited to the point at which residents would be more likely to travel to other settlements outside the study area than to the proposed store. I am satisfied that the primary and secondary study areas provide a realistic prediction of the areas from which trade to the proposed store would be drawn.

24. In recognition of the relatively small size of the proposed store and the attractions of other locations, the assessment assumes that no trade would be drawn from outwith this area. Given the store's location close to a junction on the A9, it is conceivable that it would

attract an element of pass-by trade from further afield. This would increase the capacity available to support the proposed store beyond that identified by the appellant and I have borne this in mind when considering the quantitative justification. It is unlikely however to add significantly to the available capacity.

25. Using recognised data sources for population, expenditure per capita and growth, the study identifies £31.2 Million of convenience expenditure in the whole catchment area (at 2013). A proportion of this expenditure is being spent at existing stores within the study area and the remainder is spent elsewhere. The appellant's figures for the convenience turnover of existing stores in the catchment in 2013 is £18.75 Million. This is based on the Stirling Retail Capacity Study update 2009 (adjusted to reflect the 2013 study year), the Stirling Annual Retail Monitoring Report and the household survey. This means that there is £12.45 Million (£31.2 Million - £18.75 Million) of leakage from the catchment, primarily to superstores in Stirling. This is a source of capacity for additional convenience retail development.

26. The appellant's calculation for the turnover of the proposed store in 2013 uses a net convenience floorspace of 1628 square metres. The scenario that contemplates a Tesco relocation applies a sales density of £13,000 per square metre to give a convenience turnover in 2013 of £21.16 Million. The scenario that does not rely on Tesco as the operator, assumes a sales density of £11,000 per square metre, which gives a turnover in 2013 of £17.9 Million.

27. Looking first at the scenario that does not assume a Tesco relocation, even if the proposed store managed to capture all of the identified convenience capacity (£12.45 Million), this would not support the turnover of the proposed store (£17.9 Million). In reality, the proposed store would never claw back all of the leakage to larger stores outwith the catchment as it would not be large enough to offer the same range of products that some customers would expect, and some catchment residents would always opt to shop elsewhere in combination with comparison shopping trips and (in the case of those who work in Stirling or Perth) their daily commute. The council's retail consultant assumed that 70% of leakage could be clawed back. The consultant who prepared the retail assessment for the Dunblane New Golf Club site (discussed later in this notice) predicted a 75% rate of leakage clawback. If one assumed that 80% of all the identified capacity was available to the proposed store, that would equate to £9.96 Million, which is only just over half that needed to justify the proposed store in quantitative terms.

28. The appellant has not assumed that any trade to the store would be drawn from residents who do not live within the catchment. This is a conservative approach, but one that is justified when one considers the relatively small scale of the proposed store and the accessibility of alternative, larger stores in Stirling and Perth to residents who live outside the catchment. Therefore, apart from a small allowance that could be made for pass-by trade from the A9, all of the store's £17.9 Million turnover would need to be accounted for in the identified catchment capacity. The logic of this approach would also apply to the existing catchment stores, which are all smaller than the appeal proposal and therefore even less likely to attract trade from residents who live elsewhere.

29. One can adjust certain assumptions and assess their effect on the identified capacity. If one assumed that the Marks and Spencer Simply Food store, because it arguably serves something of a niche market, attracts some of its trade from outwith the catchment, this would increase the capacity available to support the proposed store. A generous assumption that 20% of that store's trade was drawn from outwith the catchment, would add £0.77 Million to the capacity, based on the appellant's turnover figures for that store. If one also allowed for a 10% loss of trade to all the catchment stores below the figures used in the appellant's assessment (to represent an "acceptable" loss of trade), this would add a further £1.82 Million of capacity. However, even making such assumptions, the available capacity of the catchment would increase to only £12.55 Million. An allowance for pass-by trade from the A9 might increase this to £13 Million or so, but this would remain well short of the level needed to justify the proposed development.

30. Turning to the Tesco relocation scenario, the capacity for a new store could potentially be increased because the turnover of the existing Tesco Metro could be discounted. However, this would rely on a restriction being applied to the Tesco Metro unit that prevented its re-use for convenience retail purposes once Tesco had vacated. In such a scenario, the appellant's estimate of the 2013 convenience turnover of that store (£12.58 Million) could be added to the £9.96 Million of capacity that is referred to above, to give a total of £22.54 Million. This would be sufficient to accommodate the store.

31. The appellant's retail assessment is therefore only supportive of the proposal in quantitative terms if it were to replace the existing Tesco Metro. There is no contractual commitment to this scenario and no certainty that the grant of planning permission would result in the relocation of Tesco and the cessation of retailing at the Tesco Metro site. Therefore, it would be unreasonable for me to base my decision upon an assumption that this would occur. I therefore conclude that the appellant's assessment does not demonstrate a quantitative justification for the proposed store.

32. In June 2010, the promoters of an alternative location for retail development on the Kippenross estate (which is discussed in more detail, later in this notice) submitted a retail assessment. This considered, among other things, the quantitative justification for a new foodstore in Dunblane. The assessment incorporated the findings of a survey into the shopping habits of 500 local residents, which were also used in the appellant's assessment. Using a catchment drawn tightly around Dunblane and incorporating an assumption of 10% trade draw from outwith the catchment, this identified available convenience expenditure in 2015 of £9.91 Million. This is consistent with the appellant's findings and well short of that needed to justify the proposed store in quantitative terms.

33. The planning authority commissioned a study into the convenience requirements of the Stirling LDP area. This reported in September 2010. It focussed on the entire local authority area but also considered the retail capacity in Dunblane specifically and identified available convenience expenditure in Dunblane of £8.4 Million. This assumed that 50% of the existing estimated leakage from Dunblane (principally to Stirling) could be reclaimed and that £2.4 Million of additional convenience expenditure could be attracted. The planning authority's consultant accepts in his subsequent assessment that this was a "rough estimate", but I consider that it provides a sufficiently reliable broad indication of

capacity, which is clearly short of that needed to justify the proposed store in quantitative terms.

34. In November 2010 a retail assessment was submitted by the promoters of another alternative location for retail development, on part of the Dunblane New Golf Club (which is discussed in more detail, later this notice). This incorporated the findings of a survey of 1119 local residents, together with the 500 resident survey used in the Kippenross study. The study area used for this assessment was larger than any of the others and included Callander, Auchterarder, Comrie and Crieff, although it did not assume significant trade draw from these more distant locations. Current market share for established convenience retailers was calculated using the survey data. Using a 2015 test year, the assessment identified leakage from the catchment of £11.87 Million, of which £8.89 Million (75%) was predicted to be clawed back. It also predicted overtrading in Dunblane's existing Tesco Metro store of £3.42 Million and an allowance of an additional £1.2 Million capacity to equate to capturing 25% of the existing trade that is currently leaking from Callander to Stirling (and bypassing Dunblane). Given the relatively modest scale of the appeal proposal when compared to the Stirling stores, I consider this latter assumption to be optimistic. Adding these together, gives a total convenience capacity of £13.51 Million. This is rather higher than is identified in any other assessment but falls short of providing conclusive quantitative justification for the proposed store even if one added an allowance for an "acceptable" loss of trade to existing catchment stores.

35. The planning authority commissioned a further retail requirements study (August 2011) in order to respond to the various retail assessments that had been submitted and to provide a study that was focussed on Dunblane rather than on the wider Stirling Council area. It looked at expenditure capacity within the primary catchment. In assessing the turnover of existing stores, it departed from the findings of the household survey because, if the survey's conclusion that 39% of convenience trade was leaking outwith the primary catchment was correct, then existing stores within it would need to be under-trading significantly. The consultant did not consider this a credible assumption and therefore adjusted the findings to assume that stores within the catchment traded at average levels. This had the effect of reducing the level of leakage to 30% or £8.7 Million. After allowing for 70% of this leaked expenditure to be clawed back and assuming that £2.9 Million of new trade could be attracted, this concluded that there would be a convenience capacity of £9.6 Million in 2015. The consultant accepted that it is common practice to add to this figure additional capacity that would equate to an "acceptable" reduction in town centre trading. However even after such an adjustment, the identified capacity would remain well short of that needed to support the proposed store in quantitative terms.

36. There is, as one would expect, a degree of variation in the findings of the various retail assessments. However, they are consistent in their finding that there is not a convincing quantitative justification for the appeal proposal.

37. When considering whether the scale of the proposal is commensurate with the size of the community, as required by structure plan Policy S4, it is necessary to take account of both qualitative and quantitative findings. When considering a proposal that would bring

significant qualitative benefits to convenience shopping in Dunblane but which is not supported in quantitative terms, a judgement needs to be made as to the relative weight to be attached to each consideration.

38. If a proposal is permitted without adequate quantitative justification, either the new store will fail to achieve the expected level of turnover or, if it manages to trade at that level, it will leave less available expenditure to support other stores. The planning system does not exist to protect existing retailers from market competition except where this would have an objectionable effect on the vitality and viability of a protected centre (in this case Dunblane town centre). Therefore, before one can determine whether the proposal should be supported on the basis of its qualitative benefit it is necessary to look at the predicted pattern of the proposed store's trade draw and assess its likely impact on the vitality and viability of the town centre. I have considered this issue below.

The proposal's implications for the vitality and viability of Dunblane town centre

39. Structure plan Policy S4 and local plan Policy ED12 require, among other things, that supermarket proposals do not undermine the vitality and viability of a centre. This is also one of the key retail policy objectives of SPP. I have concentrated on the impact on Dunblane town centre, as this is the centre most likely to be affected. No party has suggested that the proposal would harm any other centre.

40. The appellant concludes that the development would have little impact on Dunblane town centre. In 2013, it predicts a reduction in convenience trade of £0.13 Million, which would be approximately 12% of the town centre's modest convenience turnover of £1.07 Million. The combined comparison and convenience trade diversion to the proposed store is predicted to be £0.18 Million, which would be a 5.4% combined impact on the centre as a whole. If an allowance is made for projected growth in convenience and comparison retailing then the convenience impact would be 11%, the comparison impact would be entirely absorbed by natural growth and the combined impact would be approximately 3%. In the current economic climate it would be unwise to assume that such growth will occur, so I have not relied upon this adjustment in considering the likely level of impact.

41. The planning authority's retail consultant questions the assumption that trade diversion from the town centre would be this low. He predicts that 2.5% of the proposed store's trade would be diverted from these stores, which would result in a 34% reduction in their convenience turnover. The appellant's predicted impact was based on assumption that only 1% of the new store's trade would be drawn from the town centre. Given the limited level of convenience retailing in the town centre, it seems unrealistic to predict that the proposed store would draw 2.5% of its convenience trade from this source, and the basis for this assumed level of trade diversion has not been explained. In contrast, the appellant's trade diversion prediction is based on a consideration of factors including similarity of goods traded and of catchment areas, which I am satisfied provides a robust basis for the figures it has produced.

42. Using the usual indicators of vitality and viability, although levels of footfall are not as high as might be expected, which undermines, to an extent, the vitality of the centre, the various consultants' reports have concluded that Dunblane's town centre is currently in generally good health. Against that background, a combined trade diversion in the order of 5% would not appear to be a significant threat to the centre. Indeed, the planning authority's retail consultant regards a 20% trade diversion as the point at which one might typically have concern. It is important to bear in mind the dominance within the centre of small independent shops, which are likely to be less resilient to competition than national multiples. However I conclude that, if one considers only the direct impact of trade diversion from the town centre, the proposal would be unlikely to threaten its vitality and viability.

43. It is also necessary to consider the effect on the centre's vitality and viability of the predicted significant loss of trade to the adjacent Tesco Metro store. The fact that this store lies just outside the town centre and is not therefore protected by planning policy does not mean that this impact can be ignored.

44. The appellant predicts a trade diversion from this store of just over £6 Million in 2013, which would be a 45% loss of trade if the store is trading at average levels. The planning authority's consultant predicts a 50% loss of trade. The promoter of one of the alternative development sites contends that the Tesco Metro is in fact over-trading by over £3 Million and that the proposed store would draw this trade in addition to that which the appellant has identified. The basis for this claim is that the appellant relies on being able to capture all of the available capacity, some of which, it is argued, is in the form of overtrading at the Tesco Metro store, rather than in the form of leakage. If this predicted impact were to occur then the store's convenience turnover would be likely to fall by approximately 62%. I do not accept the logic of this argument because for this level of impact to occur, the proposed store would have to divert just under £10 Million of convenience trade from the Tesco Metro. Assuming this still amounted to 35% of the proposed store's convenience turnover, which assumption has not been challenged, the convenience turnover of the proposed store would have to be £28.5 Million, which would equate to a sales density of £17,500 per square metre, a figure that I consider to be unrealistic.

45. In fact, if the Tesco Metro store is over-trading, which is consistent with the shopper survey and plausible given the lack of choice in the town, then the proportion of its trade that would be diverted to the proposed store would be lower than the appellant and planning authority have predicted. If the Tesco Metro is overtrading by as much as its planning consultant estimates then the appellant's predicted trade diversion would leave the Tesco Metro store with a retained convenience turnover of approximately £9.5 Million. This is about 75% of what Tesco's consultant states is the company average turnover for a store of this size.

46. A main food retailer such as Tesco could be expected to be capable of responding to the level of competition that the new store would provide and in its representation, Tesco has not claimed that closure of this store would be a likely consequence of the appeal proposal. Even on an assumption that there would be a 62% loss of trade (which as stated

above, I consider to be erroneous), Tesco's consultant does not indicate that closure of the store would be inevitable, merely that, at a turnover rate that was significantly below the company average, a commercial decision would have to be taken by the board. From the evidence that is before me, I conclude that the store would remain sufficiently profitable to continue trading and that, for this reason, even if Tesco relocated to the appeal site, which seems unlikely given the appellant's discussions with Sainsbury's, it is likely that the Tesco Metro site would be acquired by another retailer. In considering the consequential impact on the adjacent town centre I have therefore considered the implications of there being no store at the site but have concentrated on what I consider to be the more realistic scenario, which is that the store continued to trade (either as a Tesco or with some other operator), albeit at a significantly reduced level.

47. The planning system does not exist to protect the interests of one store operator over another. However, if the predicted loss of trade had a consequential impact on the town centre, this would be a matter of legitimate planning concern.

48. The July 2010 household survey investigated, among other things, the extent to which convenience shoppers undertook other activities in conjunction with their main food shop. The value of these findings to my consideration of this appeal is significantly limited by the fact that the survey did not identify which food store each respondent visited. However, as the single most visited store was the Dunblane Tesco Metro, the survey provides some assistance in predicting the extent to which that store might be benefitting the town centre through the encouragement of linked trips.

49. The survey identified that 23.5% of respondents combined their last main food shop with a visit to the bank, post office etc and that for 32.4% of these, this was in a town centre. It found that 16.5% combined their main food shop with the purchase of other food items from different shops and that 59.2% of these purchases were made in a town centre. 21.4% of respondents combined their last main food shop with the purchase of non-food items and 38.5% of these were in a town centre. Although these survey findings do not conclusively demonstrate the link between the edge of centre Tesco Metro and Dunblane town centre, they confirm that a significant minority of Dunblane residents are linking their main food shopping trip with a town centre visit and, unless there are grounds to conclude otherwise, it is reasonable to assume that this applies to those who shop at the Tesco Metro store.

50. The planning authority agrees with the appellant that linkages between the Tesco Metro store and the town centre are restricted by the railway, and that the town centre therefore draws little benefit from the adjacent store in terms of footfall. Interested parties have asserted that the planning authority's position is inconsistent with that set out in the draft proposed LDP, in which the Tesco Metro site is proposed to be included within an extended town centre boundary. While that may be so, as I have discussed later in this notice, the emerging LDP has not reached a stage that would permit me to afford its provisions significant weight in this appeal.

51. When I visited the store, I observed a small number of pedestrian trips between the store's car park and the other side of the railway. This is consistent with other anecdotal

evidence of such activity that has been provided by interested parties. One of the interested parties (a resident of the north of the town) has confirmed his personal experience of undertaking linked trips to the town centre in conjunction with main food shopping trips to this store. His view was that, were a store to be built at the appeal site, it would be more convenient for him to shop there and he would no longer be inclined to visit the town centre so regularly. I conclude that, in spite of the railway line, which would present a disincentive to some visitors to the Tesco store from visiting the town centre on foot, and the shortage of car parking in the town centre itself, which would tend to discourage those not willing to walk between the two from using their car, it is reasonable to conclude that the centre derives some spin-off trade benefit from the Tesco Metro.

52. The appellant has attempted to quantify the value of linked trips associated with the Tesco Metro store in terms of retail goods turnover in the town centre. This exercise ignores any effect of the railway and is therefore likely to overstate, to a degree, the value of these trips. As the survey did not provide clear outputs from which to draw firm conclusions, any analysis of those outputs must be treated with a degree of caution. It is useful however to look at the approximate value of linked trips when considering the consequential effect of the proposed loss of trade to the Tesco Metro.

53. The appellant's approach was to divide the estimated turnover of the Tesco Metro store by the mean main food shopping spend per visit (from the survey), to find the number of main food shopping visits per annum. This produced a figure of 220,000 shopping trips per annum. This does not of course ignore the fact that this store is likely to be used for significant levels of top up rather than main food shopping. It is merely a means of breaking down the store's turnover into a multiplier that can then be applied to the mean value of linked town centre spending that is associated with a main food shopping trip (again, this was derived from the survey). From an analysis of the survey responses, it is assumed that 11% of main food shopping trips lead to a linked trip that generates some expenditure within the town centre and that the average spend in the town centre per trip is in the order of £10 to £20 per visit. This provides a value of between £0.24 Million and £0.48 Million per annum, which is between 7.3% and 14.6% of the appellant's estimate of the centre's total turnover.

54. I regard the appellant's estimate to be a very broad but nevertheless useful estimate of the value of linked trips to the town centre from the Tesco store. It ignores the less tangible benefits to the town centre's vitality and viability of trips that do not lead to expenditure within the town centre, such as the improved retailer and investor confidence that could be expected to be a benefit of increased footfall within the centre even where that did not lead to any additional spend. However, I do not regard this as a significant shortcoming.

55. It is then necessary to predict what proportion of this consequential benefit could be expected to be lost, were the Tesco Metro store to lose 40 to 50% of its trade. It is conceivable that many of its customers who are making linked trips to the town centre are those, perhaps because they live nearby, for whom the Tesco store would remain the most convenient place to shop, even if another store opened at the appeal site. If that were true then even a 40 to 50% loss of trade to the Tesco Metro store might not have a significant

effect on the numbers of linked trips from that store. However, as there is no evidence to support this, I have assumed, as a worst case scenario, that there would be a loss of 40 to 50% of the total consequential value of the linked trip business as a result of the proposed development. This would represent a loss of between £0.096 Million and £0.24 Million or between 3% and 7.3% of the town centre's trade.

56. Clearly, if a consequence of allowing the appeal was the closure of the Tesco Metro store and no alternative retailer taking over the site, then 100% of the consequential benefit the town centre derives from linked trips associated with that store would have to be accounted for. When added to the appellant's prediction for the direct impact, this would equate to a maximum loss of trade of £0.66 Million (£0.48 Million consequential impact + £0.18 Million direct impact). Using the appellant's figures, this would represent a loss of about 20% of the town centre's total turnover of £3.35 Million. This reaches the level of trade diversion which the planning authority's consultant predicts could be harmful to the centre's vitality and viability. However, for the reasons I have stated, I do not consider this to be a realistic prediction and I have therefore based my assessment on an assumption that there would continue to be a supermarket on the Tesco Metro site.

57. I agree with the appellant that linked trips do not have to be made on foot. Therefore, despite the relative remoteness of the appeal site from the town centre, the proposed store would generate some linked trip benefits for the centre, albeit that these would be likely to involve car or perhaps bus or cycle journeys between the two. Such linked trips would offset some of the loss of such trips from the Tesco Metro store. However, it is self-evident that the propensity for a proposed store to generate linked trips with a town centre must be influenced by its proximity and accessibility to that centre. This is the premise on which policy support is offered to edge of centre locations. The University of Southampton research into the impact of large food stores on market towns, to which one of the interested parties has referred me, found a significantly higher rate of linked trips to a town centre from an edge of centre store than from one in an out of centre location. I think it is unlikely therefore, given the distance between the appeal site and the town centre and the shortage of town centre car parking, that the proposed store would generate significant levels of linked trips with the town centre, despite the fact that it would be likely to significantly increase the number of Dunblane residents who carried out their food shopping within the town rather than elsewhere.

58. In conclusion, if one adds the consequential impact that could be attributed to a reduction in linked trips to the direct impact that would result from trade diversion from town centre stores (which would be in the order of 5%), I am confident that the likely total impact on town centre trade (likely to be no more than 13%) would not threaten the town centre's vitality and viability. In this respect therefore, the proposal would satisfy the requirements of SPP, structure plan Policy S4 and local plan Policy ED12. As I stated earlier, this finding also has significance to the consideration of whether to support the proposal in the absence of a quantitative justification.

Could retail development be accommodated on any sequentially preferable sites?

59. SPP requires all proposals for retail development to follow a sequential approach to site selection unless specifically exempted by the development plan. This approach requires that potential locations for development are considered in the following order: town centres; edge of town centres; other commercial centres (there are no such centres in the Dunblane catchment); and finally out of centre locations that are or can be made easily accessible by a choice of transport modes. Structure plan Policy S4 and local plan Policy ED12 require, among other things, that the sequential approach is followed.

60. The appeal site is not within or close to Dunblane's town centre as defined in the local plan, but is within the defined settlement boundary. It therefore occupies an out of centre location. Although the site is adjacent to a relatively large housing development, the layout of roads and footways is such that the appellant's accessibility analysis identifies only 46 residents within a 400 metre walking distance of the site. However, the site is accessible on foot to 574 residents within 800 metres, and to the majority of Dunblane within a cycling distance of 4 kilometres. The appellant's proposed new bus stop for northbound services and associated pedestrian crossing improvements would also make the site adequately accessible by public transport. Overall, I conclude that the site is sufficiently accessible to be considered potentially suitable for the proposed form of development.

61. The sequential approach requires an assessment of whether any sequentially preferable sites are suitable and available for development. It is not necessary to assess alternative sites that are sequentially equal or those that are sequentially inferior. The alternative site that is being promoted by MacDonald Estates and Gloag Investments is opposite the Marks and Spencer store at the southern edge of the settlement, outside the defined settlement boundary. Unlike other sites, which I have referred to below, the promoters of this site have not argued that it occupies an "edge of town centre" location and, due to its detachment from the town centre, it could not reasonably be regarded as such. At best therefore, the site could be classified as "out of centre", which would make it sequentially equal to the appeal site. It does not therefore need to be assessed under the sequential approach.

62. The parties agree that there are no suitable and available sites or premises in the town centre.

63. Turning to edge of town centre locations, it is necessary to consider whether potential alternative development sites to which I have been referred could reasonably be regarded as "edge of town centre". The appellant has referred me to the definition in the, now superseded, SPP8. This no longer has the status of government policy. However, the considerations it lists for use in assessing this issue, remain relevant. The local plan and structure plan define "edge of centre" as being within easy walking distance of the town centre and usually adjacent. The structure plan adds that such locations usually provide parking facilities that serve the centre as well as the store, enabling one trip to serve several purposes.

Abattoir site

64. Dunblane Abattoir lies on the eastern side of the Perth Road dual carriageway but within the settlement boundary. It is not immediately adjacent to the defined town centre boundary and, lying at a lower level than the road, cannot be seen from the town centre. However it is within approximately 300 metres of the High Street, where the main concentration of shops lies, and is about half that distance from the post office and the town centre uses that lie closest to the station. The site is accessible on foot through a tunnel under Perth Road. Although not an attractive route at present, it is possible to imagine this being improved to a state that would encourage pedestrian access. Overall, I conclude that the abattoir site is an edge of town centre site that requires to be assessed as a sequentially preferable alternative to the appeal site.

65. With regard to the availability of this site, paragraph 63 of SPP confirms that applicants must demonstrate that sequentially preferable sites have been thoroughly assessed. The appellant contends that the occupier of this site has indicated that their business is likely to close in the next five to 10 years. If the timeframe were at the upper end of this range and if the occupier could not be compelled to vacate the site before then I would agree that the site should not be regarded as available. However, if the site is likely to become available within five years then a different conclusion might be appropriate. Ultimately, the appellant has provided no documentary evidence in support of its conclusions and I do not regard the appellant's investigation of this site's availability as satisfying the requirement of SPP for a thorough assessment. Therefore, I cannot conclude that the site is unavailable.

66. Turning to suitability, the appellant describes the site as having an area of approximately 0.4 hectares, which is only about 12% of the size of the appeal site. However, there is land immediately to the rear of this site, which is also within the settlement boundary and could perhaps be added to the abattoir site to give a site of approximately 1.2 hectares. The appellant estimates that a site of 1.65 hectares would be required to accommodate a supermarket of sufficient size to address the identified qualitative requirement. When one considers the land that would be required to provide an adequate vehicular access to the abattoir site, bearing in mind the site's narrow frontage and the drop in ground level from the Perth Road carriageway, I conclude that this site would be too small to accommodate a store of that size and also too small even to accommodate a store of the smaller size that would be justified purely by the identified quantitative requirement. The site is therefore unsuitable and can be discounted under the sequential approach.

Alternative sites promoted in response to the LDP request for expressions of interest

67. Two other sites have been presented as edge of town centre alternatives to the appeal proposal. Both lie to the north of the abattoir site, on the eastern / south eastern side of Perth Road. The first is the Kippenross site, which comprises an area of woodland, predominantly a conifer plantation, at the entrance to the Kippenross estate. This lies across the river from the abattoir site. The second, which lies immediately to the north of

Kippenross is the Kippendavie site, which comprises some of the existing Dunblane New Golf Club land.

68. Both of these site are within approximately 40 metres of the nearest edge of the designated town centre. However, they also both lie outwith the settlement boundary in the green belt. The appellant contends that, for this reason, they cannot be regarded as “edge of town centre” sites. Indeed, the appellant contends that they should not be regarded as even sequentially equal to the “out of centre” appeal site. I disagree.

69. The purpose of the sequential approach is to direct retail and some other town centre uses to locations that would best support town centres. An assessment of whether a site is at the edge of a town centre therefore requires a judgement to be made on whether the nature of the site’s physical connection with the town centre is such that its proposed development could achieve this purpose. Site specific designations might make a site unsuitable for development, but I do not accept that they affect a site’s position in the sequential hierarchy. This approach is consistent with the definition of “edge of centre” in the structure plan, which refers to a site’s location and how a development on that site might function with the town centre and does not refer to policy designations. This was also the case in the definition of “edge of town centre” in the superseded SPP8. I do not therefore accept that these sites’ green belt status necessarily prevents them being regarded as “edge of town centre”. I conclude that their position in the hierarchy should be assessed in a similar manner to that used for the abattoir site.

Kippenross site

70. The Kippenross site lies opposite the junction of Beech Road and Perth Road. There are residential rather than town centre uses occupying this end of Beech Road. However, town centre uses commence within approximately 100 metres of the site, and the southern end of High Street, where the main concentration of town centre uses starts, is only approximately 140 metres away. The site’s frontage is visible, although not prominent from the southern end of High Street and, although Perth Road currently presents a significant deterrent to pedestrian access between the site and the town centre, it is conceivable (as the promoter of that site has demonstrated in their supporting documentation) that this could be improved by traffic calming and public realm works. There is a gradient between the site and the main part of the town centre that might discourage some users from walking between the two. I also accept that if development occupied the south eastern end of this site, it would be further from the town centre. However, taking all of the factors into account, I conclude, on balance, that this site should be regarded as “edge of town centre”.

71. With regard to suitability, a layout drawing has been submitted which shows that the site is large enough to accommodate a supermarket. This issue is not in dispute amongst the parties. However, SPP confirms that the purpose of the sequential approach is to ensure that different types of retail and commercial uses are developed in the most appropriate location. In this context, an assessment of suitability must involve more than just a consideration of whether an alternative site could physically accommodate the proposed development. The concept of ‘suitability’ must also require an assessment of the

implications of such development. If this were not the case, a development that was otherwise acceptable in planning terms could be prevented by the existence of a site that was better related to the town centre, but on which the proposed development would have adverse implications and would not be likely to receive planning permission.

72. The Kippenross site lies within the green belt. SPP confirms that the purposes of green belts are to: direct planned growth to the most appropriate locations and support regeneration; protect and enhance the quality, character, landscape setting and identity of towns and cities and protect and give access to open space within and around towns and cities. The development of a supermarket within the green belt would be inconsistent with these aims. However, SPP potentially permits development that would not normally be consistent with green belt policy where this would meet an established need where no other suitable site is available. Therefore, for the purposes of the sequential approach, I do not regard the site's green belt status in itself as an absolute indicator of unsuitability. Rather, I conclude that it is the specific impacts of such a development that must be considered.

73. In making this assessment I have had regard to the extensive supporting information that has been provided by the prospective developer of the Kippenross site. This includes a landscape and visual impact assessment (LVIA) of July 2010.

74. The site lies within the Teith / Forth / Allan Landscape Character Area (LCA), as defined in Scottish Natural Heritage's Central Region LCA (1999), where estate houses with extensive policies of designed landscape and woodland are among the key characteristics. The Kippenross LVIA recognises that this LCA has a high sensitivity to change and finds that developing it with a supermarket and ancillary development would have a locally high magnitude of change, although the magnitude of change on the wider LCA would be negligible. It concludes that the development would not have a significant effect upon the character of the LCA as a whole. However, even in year 15 following development (when proposed landscaping could be expected to have had a screening effect), the development of this site would have a locally major adverse and significant effect for the site itself and areas immediately adjoining.

75. The site forms part of the nationally important gardens and landscape of the Kippenross Estate. These are included in the Register of Historic Gardens and Designed Landscapes (HGDL). The effect of development on the site itself and its immediate surroundings is therefore of considerable importance. I agree with the LVIA that developing the Kippenross site would have a major adverse and significant effect on the character of this part of the HGDL. I do not accept that because the original layout of the estate has changed since first laid out, or that because the development would not be seen from some parts of the HGDL, this locally significant harmful effect should be accepted. The site occupies a prominent position at one of the main entrances to the estate and, in order to develop the site, this entrance to the estate would either have to be closed (as is suggested in the LVIA) or (as is shown in the suggested layouts) taken through the car park of the proposed store. Neither solution would be appropriate to the historic landscape or to the setting of the listed Kippenross House.

76. The LVIA defined a local LCA for the urban area of Dunblane. However, Perth Road forms a clear and logical edge to the settlement at this point. The site lies beyond that settlement edge and has little visual association with the urban area. I do not therefore consider it reasonable to include the Kippenross site within that local LCA. The proposed development of this site would appear as an urban encroachment into the surrounding countryside. The site forms a very important part of the landscape setting of Dunblane and I conclude, from the evidence that is before me, that developing this site would unacceptably detract from the character and amenity of the settlement and of the surrounding countryside.

77. For all of these reasons, I conclude that this site is unsuitable.

78. I am not persuaded that the requirement to obtain a felling licence to remove the site's existing plantation means it is unavailable within a reasonable timeframe. However, as the site is unsuitable for development, this does not affect my overall conclusion that the site should not be given preferential status to the appeal site in the sequential approach.

The Golf Course (Kippendavie) site

79. As this site lies immediately to the north of the Kippenross site, the factors that need to be considered when deciding whether it is "edge of town centre" are very similar. A distinguishing feature is the significant levels difference between the site and the town centre, (the site being raised above the level of Perth Road). This would potentially reduce the flow of pedestrian traffic between the site and the town centre and therefore reduce its ability to function as an "edge of town centre" site. However, I do not regard this as so significant a disadvantage as to exclude this site, which is immediately across Perth Road from the defined town centre boundary, from being regarded as "edge of town centre".

80. With regard to suitability, the parties agree that a supermarket and necessary ancillary facilities could be accommodated on the site. Indeed the illustrative layout details show a number of other elements in addition to a supermarket, including a town square and space for office, residential and small retail units. This site lies outside the defined HGDL designation and is further from the listed Kippenross House than the adjacent site. It would be less likely therefore to harm the historic environment than the Kippenross site. Despite this, and possibly to a greater degree than the adjacent Kippenross site due to the greater prominence of the site from Perth Road, the development of this site would extend the settlement beyond its clearly defined and logical edge at Perth Road into the surrounding countryside. Having reviewed all of the information that is before me, I conclude that this would have a harmful, urbanising effect on the landscape setting of Dunblane. For this reason, I regard the site as unsuitable.

81. Although the site is currently occupied by Dunblane New Golf Club on a long lease, there is a clause in that lease that entitles the landlord to resume land from the lease for development, provided that alternative golf facilities are provided elsewhere. There is no reason to assume that this process would significantly delay the development of this site. Therefore I am satisfied that the site is available. However, as with the Kippenross site, in view of its unsuitability for the proposed development, this does not affect my overall

conclusion that the site should not be given preferential status to the appeal site in the sequential approach.

82. I am therefore satisfied that there are no sequentially preferable sites that are both suitable and available. In this respect therefore, the appeal site satisfies the requirements of structure plan Policy S4 and local plan Policy ED12.

Implications of and for the emerging local development plan

83. The authority is in the process of preparing a local development plan (LDP) to replace the structure and local plans. It has not yet published the proposed plan for consultation. Instead, it has recently resolved to publish a draft proposed plan for informal consultation. This will require to be followed by a proposed plan, which will subsequently go on deposit for representations, presumably in 2012.

84. The parties have referred me to the emerging LDP for two different reasons. First, the appellant contends that the proposal is supported by the emerging plan and that this should be taken into account in determining this appeal. Secondly, those promoting alternative sites contend that allowing the appeal would prejudice the LDP process and that the issue of whether, and if so where, to provide a new supermarket in Dunblane should not be decided in advance of the LDP examination.

85. Turning first to the proposal's status in the emerging LDP and the weight this should be given, the draft proposed plan proposes two allocations for the appeal site: one for 1.5 hectares of business development and one for a foodstore of the size currently proposed. It proposes no changes to the green belt boundary around Dunblane where the Kippenross, Dunblane New Golf Club and the site opposite Marks and Spencer are located. In the text that accompanies the Dunblane allocations, the planning authority acknowledges that there is not a convincing quantitative case for such an allocation but that qualitative and employment generation benefits outweigh this. I therefore agree with the appellant that the LDP draft proposed plan is clearly supportive of the appeal proposal.

86. With regard to the weight that should be attached to the emerging LDP, the planning authority has confirmed that it resolved to publish a draft proposed plan so it could amend the plan if necessary in light of any representations received. The appellant contends that this additional non-statutory stage of consultation was prompted by housing issues in Stirling rather than retailing in Dunblane. That may be the case. However, the planning authority has acknowledged that, unlike a plan that has reached the proposed plan stage, the draft proposed plan cannot be regarded as the authority's settled view. I conclude that until the planning authority resolves to adopt a proposed plan, it cannot be assumed that the authority's position on retailing in Dunblane is finalised.

87. Therefore, while it remains the most up to date expression of the local authority's preferred location for a new foodstore in Dunblane and is a material consideration in support of the proposal, the weight that can be attached to the draft proposed plan in the context of this appeal is reduced by the possibility that the authority might reconsider its

position. Bearing this in mind, I have afforded its provisions little weight in my consideration of this appeal.

88. Turning to the issue of prejudice to the LDP process, the key consideration is not whether allowing the appeal would prejudice the interests of those who are promoting alternative sites (which it clearly would) but rather, whether the effect on the LDP preparation process of allowing the appeal, would be contrary to the public interest.

89. Interested parties argue that planning permission should not be granted in advance of a comprehensive consideration, in the emerging LDP, of where additional retail provision should take place in Dunblane. However, the strength of this argument depends to a significant degree on whether the proposal is found to be in accordance with the adopted development plan.

90. SPP confirms that the planning system should be genuinely plan-led. In the light of the findings I have set out above regarding the key policies of the development plan, which I consider to be Policies ED1, ED3 and ED12 of the local plan and Policy S4 of the structure plan, I have concluded that the appeal proposal is in accordance with the development plan. Therefore, regardless of what might be said in a future development plan, a decision to grant planning permission at this time would not, contrary to interested parties' submissions, offend SPP's expectation that the planning system be development plan-led. On the contrary, in accordance with section 25 of the Town and Country Planning (Scotland) Act 1997, an application for planning permission, which is in accordance with the development plan, should be approved unless material considerations indicate otherwise. Therefore, SPP's emphasis on a plan-led system is actually supportive of the appeal proposal and not of objectors' arguments that the appeal should be dismissed on prematurity grounds.

91. My approach to considering whether the appeal should be allowed starts with my finding that the proposal accords with the development plan. I have then weighed against that finding the implications of allowing the appeal for the emerging development plan (and all other material considerations) in order to reach a conclusion on whether the balance remains in favour of granting permission.

92. There is agreement amongst the parties that, even taking account of qualitative considerations, there would be no justification for a second new supermarket in Dunblane. Accordingly, it is intended that the emerging LDP will consider where to allocate a single site for such a store to be built. A decision to allow the appeal proposal would clearly predetermine the consideration in the LDP of this issue. It is argued by those opposing the scheme that only through a consideration of all of the options for additional retail provision in Dunblane, via the LDP process, can a proper decision be taken on where is the best location to meet any identified need. However, in terms of its effect on the decision making process, I do not regard the loss of an opportunity to compare the competing foodstore proposals through the LDP as objectionable. It is normal practice for proposals to be assessed individually as and when they are submitted and it is not normal practice or a requirement of national or development plan policy, that the consideration of a proposal which complies with the development plan should be delayed in order to contemplate

whether a better alternative might be found in the course of preparing a future development plan.

93. Objectors refer to SPP's expectation that development plans provide various interests with the opportunity to participate in shaping the future of their nation and their communities.

94. In this case, those wishing to promote a site for a supermarket have been given the opportunity to do so through the LDP's request for expressions of interest. Various public consultation exercises have been undertaken by both the planning authority and prospective developers. The local MSP has also conducted a survey of 3520 households in Dunblane. This sought the community's views on future supermarket provision in the town. There has therefore been the opportunity for alternative options to be promoted and discussed in public.

95. The planning authority is currently seeking public representations on the draft proposed LDP and will carry out a further, formal process of public engagement once the proposed plan is published. I accept that this process will offer additional opportunities for public participation and that, in relation to the question of additional retail provision in Dunblane, a decision to allow this appeal would remove that opportunity. However, given the opportunities for public participation there have already been, I do not consider that any disbenefits from this lost opportunity have sufficient weight to justify the refusal of planning permission for a proposal which is in accordance with the development plan.

96. In the context of Dunblane, a decision on whether, and if so where to build a new food store in the town is of considerable importance. However, the issues involved, including the justification for a store, the application of the sequential approach and the assessment of its likely impact, do not have implications beyond Dunblane and its immediate catchment. In terms of the emerging LDP as a whole therefore, there is no reason to suspect that this issue will be of wider significance or will have unforeseen consequences for other aspects of LDP policy or for the proper planning of other parts of the Stirling Council area. Therefore there is no reason to withhold permission at this stage because there might be wider implications for the emerging LDP.

Other matters

97. The appellant is willing to construct some of the proposed office accommodation on a speculative basis at an early stage in the development of the site. This is argued to represent a benefit to the local economy and to be a material consideration in favour of allowing the appeal. One of the interested parties contends that there is insufficient connection between what is offered as "planning gain" and the development itself. Therefore, it is argued that this offer should be afforded no weight.

98. I conclude that the proposal complies with the development plan and does not require any further justification. I do not regard the offered early completion of some of the proposed office accommodation as an essential requirement. Therefore I do not consider that it needs to be secured as a requirement from the developer. This would not, of course,

prevent the appellant from providing some of the office space at an early stage, as it has indicated it is willing to do.

99. The planning authority has requested that I impose a number of planning conditions dealing with site investigation and the remediation of any ground contaminants. I have seen no specific evidence to support the authority's concerns that the site may be contaminated, but it is conceivable that there is some contamination associated with its former use as a quarry. I note that the appellant has not objected to the proposed conditions and I have therefore imposed the site investigation conditions that were suggested.

Conclusions

100. I find that the proposed mix of uses is appropriate to a Strategic Employment Opportunity site as the retail elements accord with the exception that is provided for in local plan Policy ED3 for the non-employment use of such land.

101. Despite there being insufficient available expenditure within the catchment to justify the retail element of the proposal in quantitative terms, I find that it is strongly justified in qualitative terms and, in accordance with structure plan Policy S4 and local plan Policy ED12, is therefore of an appropriate scale. An important consideration behind this judgement is my finding that the proposal would not harm the vitality and viability of the town centre.

102. Having considered all other sites to which my attention has been drawn, I conclude that retail development could not be accommodated on any that are sequentially preferable.

103. The emerging LDP is supportive of the proposal but I conclude that it should be afforded little weight due to the relatively early stage it has reached in its production.

104. As the proposal accords with the development plan and would have no significant adverse implications for the emerging LDP I find that there is no justification for withholding permission on grounds that the proposal is premature.

105. Having considered all material considerations, I conclude that the appeal should be allowed.

David Buylła

Reporter

Conditions

1. Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.

(Reason: to ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.)

2. Prior to commencement of development on site a further application(s) for approval of matters specified in the conditions shall be submitted to and approved in writing by the planning authority. This further application(s) shall include the following details:

- a) Drawings illustrating the layout of the site and position of all buildings including existing and proposed contours, access, parking, vehicle turning and footpath provision, foul and surface water drainage arrangements and the position of all buildings.
- b) Plans, sections and elevations of all proposed buildings and other structures clearly indicating the colour and type of facing materials to be used for all external walls and roofs, and details of existing and proposed ground levels, details of under-building and proposed finished floor levels.
- c) A scheme of landscaping for the whole site (in accordance with the planning authority's approved guidelines) indicating existing trees and other planting to be retained and proposals for new boundary walls, fences and hedges, and new planting specifying number, size and species of all trees and shrubs.

(Reason: to ensure proper control of these matters.)

3. Prior to commencement of any site works, a comprehensive contaminated land investigation shall be submitted to and approved by the planning authority in writing. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution "The Investigation of Potentially Contaminated Sites - Code of Practice (BS 10175:2001)". The report must include a site specific risk assessment of all relevant pollutant linkages, as required in Planning Advice Note 33.

(Reason: to ensure that the potential for site contamination is properly addressed.)

4. Where the risks assessment identifies any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation strategy shall be submitted to the planning authority for approval. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the planning authority.

(Reason: to ensure that the potential for site contamination is properly addressed.)

5. Remediation of the site shall be carried out in accordance with the approved remediation strategy. Any amendments to the approved remediation strategy shall not be implemented unless approved in writing by the Planning Authority.

(Reason: to ensure that the potential for site contamination is properly addressed.)

6. On completion of the remediation works and prior to the site being occupied, the developer shall submit a report to the planning authority confirming the works have been carried out in accordance with the remediation plan.

(Reason: to ensure that the potential for site contamination is properly addressed.)

7. The presence of any previously unsuspected or un-encountered contamination that becomes evident during the development of the site shall be brought to the attention of the planning authority within one week. At this stage, a comprehensive contaminated land investigation shall be carried out if requested by the planning authority.

(Reason: to ensure that the potential for site contamination is properly addressed.)

8. Construction works shall be carried out during the hours of 08.00 to 18.00 Monday to Friday and 09.00 to 13.00 on Saturdays. Where it is necessary for work to be undertaken outwith these hours contractors will be required to demonstrate and justify the need to do so in advance. Full details of any such works shall be submitted to the planning authority in writing for approval at least ten working days prior to commencement. These details shall include:

- Details of residential/business premises likely to be affected.
- Proposed hours and date/s of work.
- Reasons why the works must be carried out outside normal working hours, including documentary evidence such as instruction from police or highway authority.
- Method of work to be used.
- Machinery and plant to be used.

(Reason: to ensure that the living conditions of nearby residents are not unreasonably affected.)

9. Prior to first occupation of the approved supermarket a combined cycle/pedestrian link measuring not less than 3.0 metres in width shall be provided from the Bellenden Grove/Barbush Road junction at the entrance to the site to the proposed retail store car park on the west side of the proposed access road, in accordance with details which have previously been submitted to and approved in writing by the planning authority.

(Reason: to improve the accessibility of the site.)

10. Secure covered cycle parking for the supermarket shall be provided at a suitable location close to the main building entrance at the following rates:- Staff: 1 space per 20 staff; Customers: 1 space per 500 square metres gross floor area.

(Reason: to encourage cycle use.)

11. Secure covered cycle parking shall be provided at suitable locations close to each office unit at the following rates: - Staff: 1 space per 400 square metres gross floor area; Visitors: 1 space per 1000 square metres gross floor area.

(Reason: to encourage cycle use.)

12. A new northbound bus stop layby with approved bus shelter facility shall be provided on the B8033 Dunblane-Braco Road at a suitable location to be agreed in writing with the planning authority. All layby construction works shall be completed prior to the occupation of any building.

(Reason: to secure improved access to bus services.)

13. Prior to the first occupation of any part of the development a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the planning authority. The Travel Plan shall identify measures to be implemented, the system of management, monitoring, review and reporting; and the duration of the plan. The development hereby approved shall not be occupied other than in accordance with the approved Travel Plan.

(Reason: to encourage alternative forms of travel.)

14. Prior to the commencement of any development a barrier shall be provided along the proposed boundary of the site with the trunk road in accordance with details that have previously been submitted to and approved in writing by the planning authority. This barrier shall not be removed or modified without the written approval of the planning authority.

(Reason: to control access onto the trunk road.)

15. The development shall incorporate sustainable urban drainage systems, full details of which shall be included within any further submission for development of any part of the site.

(Reason: to ensure that the approved development addresses its drainage requirements in the most sustainable way.)

16. The landscaping details that are approved under condition 2c) above shall be implemented in full in the first planting season following the completion or first occupation of any part of the approved development (whichever is the sooner). If, within a period of five years from planting, any tree, shrub or plant dies, is damaged or is removed, a similar replacement shall be provided within the following planting season.

(Reason: to ensure that the site is adequately landscaped.)

17. Unless the planning authority gives its prior written approval to any variation, the net retail floorspace of the approved supermarket, including any mezzanine, shall not exceed 2325 square metres, of which 70% shall be used for convenience retailing and 30% for the sale of comparison goods.

(Reason: in order to regulate retail activity in accordance with the evidence on which the permission was justified.)

Advisory notes

1. Notice of the start of development: The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. Notice of the completion of the development: As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)

3. Display of notice: A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.)

