

**Argyll and Bute Council  
Development and Infrastructure Services**

**Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 11/00689/PPP

**Planning Hierarchy:** Local

**Applicant:** National Grid Property

**Proposal:** Site for the erection of retail store (Class 1) with associated development including access, car parking and landscaping.

**Site Address:** Land at former Gas Works Argyll Street/Hamilton Street, Dunoon, Argyll

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**DECISION ROUTE**

**(i) Local Government Scotland Act 1973**

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Erection of Class 1 foodstore (2,932sq m / 31,560sq ft gross external floor area – 3,225sq m / 34,714sq ft gross internal floor area);
- Formation of car parking (125 spaces);
- Formation of vehicular access from Hamilton Street;
- Formation of delivery access and service yard from Argyll Street;
- Formation of bus lay-by on Argyll Street.
- Provision of compensatory flood storage area (indicative);
- Landscaping and tree planting (indicative);
- Erection of timber screen fencing along southern boundary (indicative).

**(ii) Other specified operations**

- Connection to public sewer and public water supply;
- Demolition of redundant single storey building;
- Demolition of brick boundary wall;

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**(B) RECOMMENDATION:**

It is recommended that Planning Permission in Principle be granted as a 'minor departure' to development plan policy subject to

- 1) the conditions and reasons together with '*notes to the applicant*' set out overleaf;
- 2) a Section 75 Agreement to address an appropriate developer contribution to mitigate a potential adverse impact on Dunoon town centre;

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- 3) A PAN 41 hearing being held prior to the determination of the application in view of the number of representations received relative to a prospective departure to the provisions of the development plan.
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**(C) HISTORY:**

The application site was formerly Dunoon Gas Works but this was demolished in the early 1990s. Following a programme of site assessment and investigation during the late 1990s, ground remediation was undertaken between 2004 and 2008.

A planning application ref. 01/00619/OUT for a change of use of land to retail by Lattice Property Holdings was withdrawn on 1st May 2001.

Planning permission ref. 04/00252/DET for temporary engineering and enabling works to facilitate environmental improvements and erection of boundary wall by Secondsite Property Holdings Ltd was granted on 7<sup>th</sup> May 2004 and has been implemented.

Related applications:

Planning permission ref. 07/00674/DET for the construction of flood defence works from Hamilton Street to Alexandra Parade by Argyll and Bute Council was granted on 8<sup>th</sup> June 2007 and is currently underway.

09/00003/PAN Proposal of Application Notice for erection of a Class 1 foodstore and associated development to include car parking, access road, road bridges, petrol filling station and engineering works on the site of Walkers Garden Centre and land to the rear by CWP Property Development and Investment submitted 16<sup>th</sup> September 2009 and Pre-Application Consultation process carried out.

An application ref. 10/00222/PPP for the erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works on the site of Walkers Garden Centre and land to the rear by CWP Property Application continued by Committee following a local hearing on April 2011 and PPSL Committee on 18<sup>th</sup> May 2011 in order to enable that application to be considered concurrently with this application.

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**(D) CONSULTATIONS:**

**Public Protection** (response dated 3<sup>rd</sup> June 2011): Note that the site has undergone extensive works to remediate contaminated land but it is important that the remediation is appropriate to the intended use. Recommend conditions in respect of contamination of site, noise from development, and lighting. Conditions recommended in respect of noise, lighting and contamination.

**Flood Alleviation Management** (responses dated 16<sup>th</sup> May, 16th August, and 31st August 2011): No objections subject to conditions and advisory note. Comments regarding the detailed design and means of access to the watercourse for inspection purposes. A condition survey of the training walls to be carried out detailing any remedial works to be carried out. Prior to submitting a detailed design, a site investigation including CCTV to locate and identify existing pipework should be carried out with any impacts identified on adjacent roads drainage. Pathway at Hamilton Street Bridge to be designed and provided. CAR Licence required from SEPA.

Updated comments in response to letter from James Barr / Kaya – Confirm that a copy of the Milton Burn Flood Risk Assessment was supplied to Kaya and to Dougal Baillie Associates. Satisfied with the information submitted at this stage but expect a detailed proposal to take cognisance of the Carl Bro report. Additionally, a detailed scheme should investigate fully the responsibility of riparian owners to maintain the adjacent watercourse

to reduce possibilities of culvert blockage at Argyll Street and access to the watercourse to allow the Council to carry out its duties under the Flood Risk Management Act 2009.

**Scottish Environment Protection Agency** (responses dated 6<sup>th</sup> June, 25<sup>th</sup> July, 23<sup>rd</sup> August 2011): Initial objection based on lack of information on flood risk. Updated response removes objection on flood risk grounds but recommend conditions regarding compensatory flood storage, submission of a SuDS scheme, submission of a Construction Method Statement and Regulatory Advice regarding requirement for CAR licence, pollution prevention and waste management proposals.

Updated comments in response to letter from James Barr / Kaya – SEPA confirm that the submitted Flood Risk Assessment met their minimum requirements and therefore acceptable to inform the development management process. Given the nature of the site it was accepted in this case that level for level compensatory storage could not be provided and as such pre and post modelling has been undertaken which confirms that the proposal should have a neutral effect on flood risk based on the information provided at this stage. In terms of compensatory flood storage SEPA recommend that the 200 year plus 50% culvert blockage flood extent should be adopted and considered as essentially functional floodplain and that this aspect should be covered by a planning condition. Flood Risk advice supplied for the applicant.

**Scottish Water** (response dated 13<sup>th</sup> May 2011): No objections in principle. Due to size of development Scottish Water will have to assess impact on existing infrastructure. Potential capacity issues. Separate surface water drainage system required. Advisory comments.

**Area Roads Manager** (response dated 5<sup>th</sup> September 2011): No objections subject to conditions and advisory notes. Detailed design for junction at Hamilton Street/Argyll Street required. Road Opening Permit required. For full details refer to report below.

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**(E) PUBLICITY:**

The application was advertised under Regulation 20(1) Advert Statement (publication date 13<sup>th</sup> May 2011, expiry date 3<sup>rd</sup> June 2011).

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**(F) REPRESENTATIONS:**

Representations: 72 letters/emails of objection and 1 of support.

**Supporters**

The person who has expressed support is listed in Appendix B to this report.

**Objectors**

Those persons who have raised objections are listed in Appendix B to this report.

The grounds of objection may be summarised as follows:

- Traffic problems due to locations and junctions close by;
- We have a sufficient small supermarket (the co-op) which has met our needs;
- Dunoon needs a larger supermarket as proposed on the Walkers site to fill the shopping gap we have;

- Whilst the National Grid shows there is demand for a new supermarket in Dunoon, only the Walkers scheme can provide the supermarket the area needs;
- I prefer your application to that of the National Grid site;
- No better than existing two supermarkets;
- Walkers scheme promises more car parking and will help to deliver houses to the rear;
- Proposed development would cause a loss of jobs at the Co-op;
- Proposed development is directly across from an existing Co-op supermarket;
- Proposed development would not attract larger chains to aid cost savings and choice for the consumer;
- A smaller store would be limited in shopping diversity;
- Any supermarket should go ahead on the Walkers site offering more to the community and retain the existing garden centre/coffee shop and keep the fuel station open offering competitive prices;
- If Walkers closed, a new petrol station will be required and the proposed development cannot provide this;
- Bigger store needed to compete with larger supermarkets in Inverclyde;
- Due to the location there would be public transport problems with longer stops delaying traffic;
- Has any operator shown an interest in the proposed foodstore;
- Issues of noise and light pollution from proposed development;
- Close proximity of loading bays to houses on McArthur Street with little scope for screening;
- Loss of privacy for some surrounding residential properties;
- Delivery times and impact on residential amenity;
- Traffic hazards with large vehicles accessing the site from Argyll Street;
- Turn the gas works site into a rugby/shinty pitch;
- Use the gas works site for affordable housing;
- Flooding issues from Milton Burn;
- Possible previous ground contamination;
- Fairness in dealing on a ‘first submitted first dealt with’ basis.

*Comment - One of the salient issues raised is the protection of residents in McArthur Street from noise and activities arising from the proposed service yard and delivery area. An acoustic barrier is proposed by the applicants which could be designed to mitigate any noise from this part of the site and the subject of a condition.*

Letters of objection (dated 4<sup>th</sup> July & 6 September 2011) from James Barr Ltd. include comments on the submitted Retail Statement, Transportation Assessment. The points raised are summarised below and also addressed in the main report under appropriate sections.

- Retail Statement is largely based on the Planning and Retail Statement by James Barr and relies heavily on the data and assumptions contained therein;
- The proposal is not an alternative site to the CWP proposal – CWP proposal includes a 40,000sqft foodstore with petrol filling station and 238 car parking spaces – National Grid proposes a 34,000sqft foodstore with no petrol filling station and 123 car parking spaces;
- National Grid site cannot accommodate the CWP proposal;
- Feedback received from retailers to CWP and their agents Colliers (refer below) suggest that the optimum retailer requirements for Dunoon and Cowal are a 40,000sq.ft foodstore with appropriate levels of car parking and petrol filling station;
- Proposal seeks to draw support from CWP proposal but cannot offer the same retailing, parking or petrol filling station provision;
- Proposed internal floorspace arrangements leave a smaller amount of back of house/storage than normally required to make a foodstore operate effectively;
- The proposal represents a significant under-provision of car parking spaces which is not comparable to the CWP proposal;
- The proposal lack a petrol filling station which is a key component of rural foodstore developments;
- Issue of the health of Dunoon Town Centre – regarded as healthy or not?
- CWP and National Grid roughly agree on leaked expenditure contrary to the views of the planning department;

*Comment: this alludes to the fact that officers have questioned the validity of the assumptions in both RIA's that the developments will be capable of clawing back 40% of leaked expenditure.*

- Despite the National Grid site being sequentially preferable, it cannot accommodate the CWP proposal therefore unsuitable in sequential terms;
- Comparison floorspace between National Grid and CWP proposal not significant;
- No evidence to support turnover of proposed development where planning department previously considered that company averages should be used ;
- Proposal cannot claw back the same level of leakage expenditure as it does not offer the full range of facilities that CWP proposes and a higher percentage of trade diversion will require to come from the town centre and edge of centre locations;

- Proposed foodstore will have a higher impact on town centre than CWP proposal due to its inferior offer despite net convenience floorspace being the same;
- 8% negative impact on town centre is incorrect and should include impact on Morrisons making the %impact comparable with the CWP proposal;

*Comment: As the Morrisons store is located within the defined town centre, diversion of trade from that store should be taken into account in calculating the overall impact on the town centre. Doing so produces a 20.5% impact in terms of convenience spend, but when comparison spend is included, this reduces to an overall impact of 9.5% upon the town centre as a whole.*

- Department's previous views of 'ambitious' retention of convenience expenditure;
- Overall negative impact (convenience and comparison) on town centre of 9.5% represents an under-estimate of retail impact- 8% previously regarded by planning department as significant.

*Comment: Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate against any perceived impact on the existing town centre. The basis on which the figure of 8% impact on the town centre was calculated for the CWP proposal was regarded as an under-estimate by the planning department given the larger scale and nature of their proposals.*

Objection letters (dated 8<sup>th</sup> July, 2<sup>nd</sup> August, 23<sup>rd</sup> August, and 31st August 2011) have also been received from James Barr/Kaya Consulting Ltd. on flood risk modelling and responses made by the applicant's consultants, SEPA and the Council's Flood Alleviation Team. Kaya suggest that the Carl Bro (CB) modelling study is more likely to provide a better representation of the impact of the bends in the river on flood levels at the site. Additionally, limiting the amount of land that can be raised for development and maintaining existing overland flow paths will reduce the size of the proposed development which could affect the viability of the development. Kaya consider that the DBA model under-predicts water levels, that the site may not be capable of accommodating sufficient compensatory flood storage, overland flow paths could be affected by culvert blockage and it would be premature to make a decision on the flooding risk aspects without addressing these concerns.

A letter from James Barr Ltd. (dated 25<sup>th</sup> July 2011) with supporting information from Colliers (dated 20<sup>th</sup> July 2011) disagrees with conclusions reached in the DTZ letter dated 7<sup>th</sup> June 2011. The agents confirm that their dedicated in-house retail team are actively involved in live transactions on behalf of developers with three of the four main retailers. Based on these discussions, Colliers advise that their optimum requirements for a store in Dunoon have been confirmed to be approximately 40,000sq ft with adequate car parking, servicing and a petrol filling station.

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## (G) SUPPORTING INFORMATION

**Has the application been the subject of:**

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes -. Design Statement submitted 22<sup>nd</sup> June 2011 and outlines site development strategy, flood risk management, building modelling and finishes, soft landscaping and accessibility (refer to Report).
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

'Retail Statement' dated August 2011 by Montagu Evans; concludes that the proposed development:-

- *is acceptable in the context of National, Strategic and Local planning policy;*
- *represents a significant brownfield redevelopment opportunity close to Dunoon Town Centre;*
- *the brownfield site has been remediated for development;*
- *is consistent with Strategic and Local Plan policies in respect of the sequential approach to retailing;*
- *the site is sequentially preferable in retail terms to that of the CWP proposal;*
- *there is both a qualitative and quantitative deficiency for a modern retail foodstore within the catchment;*
- *residual expenditure is considerable and being spent elsewhere either within the catchment (over trading) or outwith (leakage);*
- *main sources of trade diversion will be from the existing Morrisons foodstore provision;*
- *limited impact on convenience retail provision within Dunoon Town Centre which is regarded as being relatively healthy;*
- *is likely to claw back a significant portion of the residual expenditure being leaked from the catchment;*
- *locating a new foodstore in an edge of centre location enhances the proportion of linked trips (both retail and service related).*

'Transportation Assessment' dated May 2011 by Dougal Baillie Associates;

*The Transportation Assessment assesses the potential for minimising private car usage by public transport and an assessment of existing pedestrian, cycle and public transport facilities have been carried out.*

*It is concluded that the proposed development site is located adjacent to existing public transport facilities with bus stops located on Argyll Street. The site is well served by existing footway network on Hamilton Street and Argyll Street providing access to local residential areas and local public transport facilities. The proposed development is in accordance with SPP Transport and Planning being easily*

*accessible by a range of transport modes from many locations within the surrounding area.*

*Findings conclude that the existing roads network can operate without the need for signalisation.*

*125 car parking spaces are proposed which complies with National Parking Standards for retail development and therefore acceptable, especially given the proximity of the site to the town centre. Cycle parking will also be catered for within the development.*

Additional supporting transportation information dated 22<sup>nd</sup> August 2011 by Dougal Baillie Associates;

Following a meeting with Council Officers, additional information submitted on access position, forward visibility at junction, junction design and need for signalisation, parking ratio, pick-up/drop-off, service bay diameter and bus stop layout (refer to report for details).

'Flood Risk and Drainage Assessment' dated April 2011 by Dougal Baillie Associates;

*Hydrological and hydraulic studies conclude that the majority of the site is at little or no risk of fluvial flooding from the Milton Burn. A small area of the site on the western side is at risk of flooding and the area is therefore classed as being active functional flood plain with a medium to high risk of flooding. To ensure that the site is not at risk of flooding, it is recommended that a minimum floor level of 12.95m AOD includes a freeboard allowance which will also require a degree of land raising within the functional flood plain. To ensure a neutral impact, compensatory flood storage provisions are incorporated into the scheme design to replace lost capacity. The design, specification and corresponding calculations demonstrating performance of the compensatory flood storage provisions should be undertaken at a detailed design stage and any works within the watercourse will require authorisation by SEPA through a licence issued under CAR.*

*Foul drainage will be discharged into the existing Scottish Water combined sewer network which traverses the site.*

*It is proposed to discharge surface water run-off to the adjacent Milton Burn as this will be at least equal to natural Greenfield runoff release rates and will be provided by using a range of SUDS source control measures.*

'Response to SEPA letter dated 6<sup>th</sup> June 2011' by Dougal Baillie Associates dated 29<sup>th</sup> June 2011 including Hydraulic Model Output – longitudinal profile and cross sections.

*Further clarification on the linear reservoir routing used on the sub-catchment upstream of Loch Loskin; clarification on sensitivity analysis of Argyll Street bridge; provision of long profile and cross sections from hydraulic modelling; consideration of alternative development location within the site which negate the need for land raising; further information on the mitigation measures related to the flooding of the north-west corner and further information on proposed land raising.*

Additional supporting flooding information dated 22<sup>nd</sup> August 2011 by Dougal Baillie Associates;

Following a meeting with Council Officers, additional flood information has been submitted regarding differences in the Milton Burn flood level estimations and flood inundations maps as outlined in the DBA report when compared to Carl Bro Flood Risk Assessment, flood hydraulics in the event of bridge blockage and surface water drainage and attenuation storage (refer to report).

'Site Condition Statement' by WSP Environmental dated 17<sup>th</sup> June 2011 who confirm that a programme of remediation was successfully undertaken between 2004 and 2008 and validated to the approval of the regulator. Confirm that the site is considered suitable for redevelopment and consider that the current indicative design would not be at risk from potential residual contaminants.

A letter of support has also been received from DTZ dated 26<sup>th</sup> August 2011 incorporating comments from Kennedy & Co who confirm the following:

- *The National Grid site is a prepared brownfield site which is available for sale;*
- *Unlike the CWP site, National Grid are not displacing or extinguishing an existing employment generating business including an existing petrol filling station business;*
- *Understand that the Property Director of the major firm that Colliers represent has visited Dunoon and prefers the location of the National Grid site;*
- *Aware that the cost associated with infrastructure works including bridging the burn, site levelling and compensating the owners of the CWP site are significant and to date no operator is associated with the CWP application;*
- *Can confirm that over a number of years, National Grid and their agents has received notes of interest from a number of retailers, developers and property companies, including CWP;*
- *Only today, we received an inquiry from Eric Young & Co regarding the site and a number of developers have approached us.*
- *One of the consistent points made against the National Grid application is that it does not show a petrol filling station. There is no need to have a petrol filling station as that role is already fulfilled at the outlet provided by Walkers. If their application is inappropriate and not considered suitable and refused by the Committee then the Walkers business and petrol filling station will remain in situ this providing the need for that purpose.*

A letter from Dundas & Wilson (dated 25<sup>th</sup> August 2011) on behalf of National Grid requests that: *both the current application and the CWP application (ref. 10/00222/PPP) should be considered at the same Committee and the National Grid scheme should be considered first given that it occupies a sequentially preferable "edge of centre" location and recognised by the Council as being a "significant material consideration" in the determination of the CWP scheme. Additionally, one of the reasons of refusal for the CWP application was that "an alternative, sequentially better site is available within the edge of centre" i.e. the National Grid application site. In letters to James Barr from the Council, it reinforced officers' views that the National Grid application is very material to the determination of the CWP application, where Members endorsed this view. Furthermore, it was stated by the Council that "the planning department do consider that there is a sequentially preferable site in Dunoon".*

*It is suggested that James Barr also consider the National Grid to be a significant material consideration in determination of the CWP application which would explain why they are seeking to have the applications determined at different committees.*

*Dundas & Wilson state that it is imperative that both applications are considered at the same committee and as the "sequentially preferable site" and "new material consideration" the National Grid application should be determined by Members before any decision is*

*taken on the non-policy compliant CWP alternative. To do otherwise would be illogical, perverse and leave the Council exposed to legal challenge.*

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** Yes - A Section 75 Agreement is required to address an appropriate developer contribution to mitigate a potential adverse impact on Dunoon town centre.

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No

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**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

**(i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

'Argyll and Bute Structure Plan' (2002)

STRAT SI 1 - Sustainable Development;  
STRAT DC1 - Development Within the Settlements;  
STRAT DC10 – Flooding and Land Erosion;  
PROP SET2 – Town Centres and Retailing;  
PROP TRANS1 - Development Control, Transport and Access.

'Argyll and Bute Local Plan' (August 2009)

The application site is located within the main town settlement of Dunoon within the Edge of Town Centre zone and within Area for Action AFA 2/2 where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;  
LP ENV19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance;  
LP RET 1 Retail Development in the Towns – The Sequential Approach;  
LP SERV1 Private Sewage Treatment Plants and Wastewater Systems;  
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);  
LP SERV3 Drainage Impact Assessment (DIA);  
LP SERV7 Contaminated Land;  
LP SERV8 Flooding and Land Erosion;  
LP TRAN2 Development and Public Transport Accessibility;  
LP TRAN3 Special Needs Access Provision;  
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;  
LP TRAN5 Off site Highway Improvements;  
LP TRAN6 Vehicle Parking Provision;

**(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

- Scottish Planning Policy (February 2010), paras. 52-65
- Planning Advice Note 52 – ‘Planning in Small Towns’;
- Planning Advice Note 59 – ‘Improving Town Centres’;
- Planning Advice Note 69 – ‘Planning and Building Standards Advice on Flooding’;

- Planning Advice Note 79 – ‘Water and Drainage’;
  - Consultee Responses;
  - Third Party Representation;
  - Scottish Government - Town Centre and Retailing Methodologies: Final Report (2007);
  - GOAD retail database;
  - James Barr Retail Impact Assessment / CWP proposal.
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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact 1999 Assessment:** Yes

As an urban development project exceeding 0.5 hectares in size, the proposal would represent Schedule 2 development under the Regulations. In determining whether the proposal represents EIA development, the Council has considered the selection criteria set out in Schedule 3 of the Regulations. With regard to the characteristics of the development and the environmental sensitivity of the location, it is noted that remediation works have been undertaken on the site to remove contamination associated with the former use of the site as Dunoon Gasworks. Additionally, the approved Milton Burn Flood Defence proposals and flood defence proposals currently under construction will contribute to the alleviation of any significant concerns regarding potential flooding of the site or loss of functional floodplain. The proposal is supported by technical studies in respect of flood risk and contamination and represents development of a prominent brownfield site earmarked in the Argyll and Bute Local Plan for development including retail. For these reasons, it is considered that the proposed development does not require an EIA.

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** No

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**(O) Requirement for a hearing (PAN41 or other):** Yes.

In view of the complexity of the proposal, the volume of objections (72) and the prospective departure from the provisions of the development plan, it is recommended that Members should hold a PAN 41 hearing before determining the application.

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**(P) Assessment and summary of determining issues and material considerations**

In the ‘Argyll and Bute Local Plan’ (August 2009), the proposed retail development is located on the former Dunoon Gas Works site that is situated within the Main Town settlement of Dunoon. While the ‘brownfield’ site lies outwith the identified Dunoon Town Centre, which is identified as the preferred location for new retail investment, it is located within the defined ‘edge of town centre’ zone, which in the absence of suitable town centre sites, is the next sequentially preferred location for retail development.

In line with Scottish Planning Policy and ‘Argyll and Bute Structure Plan’ Prop SET 2, ‘Argyll and Bute Local Plan’ policy LP RET 1 establishes a presumption in favour of retail development within town centres, and adopts a sequential approach to retail development outwith town centres, firstly to sites within identified ‘edge of town centre’ locations, and then to other sites which are accessible or can be made accessible by a choice of means

of transport elsewhere within the town. The policy requires that in any of these cases that there is no significant detrimental impact on the vitality or viability of existing town centres, and the proposal is consistent with the other structure and local plan policies. The policy allows for a retail impact assessment to be requested to demonstrate the anticipated impact of the proposal on the town centre.

The applicants have therefore submitted a Retail Statement which seeks to address the policy issues in relation to both the sequential test issue and the retail impact on the town centre.

The applicants consider that the proposal represents a significant brownfield redevelopment opportunity close to Dunoon Town Centre, is sequentially preferable in retail terms to that currently proposed by CWP for a foodstore (to the rear of Walkers Garden Centre, ref. 10/00222/PPP) and represents a better alternative in policy and settlement strategy. The applicants believe that while there is demand for a further foodstore in Dunoon, the proposal by CWP for a larger foodstore with petrol filling station does not reflect operator's requirements and therefore should not preclude the consideration of the former gas works site, as being sequentially preferable and a realistic and achievable proposal.

Whilst the proposed store is smaller (2,932 sq m gross external floorspace) than the CWP proposal (3,716sq m), it contains a mezzanine floor for plant and staff accommodation and no petrol filling station. The applicants comment that the former gas works site has been promoted for development throughout the process in preparing the adopted 'Argyll and Bute Local Plan' and recent remediation works confirm this commitment to developing the site. The applicants also suggest that the location of the proposed smaller foodstore closer to Dunoon Town Centre (than the out-of-town centre CWP proposal) will also result in far greater linked retail and service trips and hence no significant loss of footfall, as would be the case with the CWP proposal.

The proposed foodstore would be larger than Morrisons (by approx 787sq m gross external floor area) but smaller than the proposed foodstore by CWP (by approximately 784sqm). The applicants have submitted a retail assessment which seeks to demonstrate the capacity of the catchment area to support additional retail floorspace, to calculate the potential to clawback leaked expenditure, and to assess the likely impacts on existing shops within the town centre. They have suggested that the proposed store is unlikely to trade at company averages and more likely to trade below that figure. A figure of 80% of company averages has been used in their Retail Statement.

The assessment of the relative impacts of the current proposals and those of CWP on the town centre relies upon the judgements made by the respective applicants consultants as to the degree to which expenditure currently lost from Dunoon could be attracted back to the town. CWP have argued that they need a larger store in order to compete with stores outwith the catchment. In their RIA they anticipate 60% of their stores turnover coming from retention of leaked expenditure. This equates to £7,019,570 or 62.7% of leaked expenditure as detailed in their assessment. As the current application is for a smaller store the applicant's agents have stated that 50% of the stores turnover will come from clawback of leaked expenditure. This would be £6,018,178 or 57.7% of the leaked expenditure.

The applicants feel that the proposal will keep nearly 58% of the current trade diversion within Dunoon and that this would significantly reduce the number of trips made outwith Dunoon for main food shopping and keep this lost expenditure within the town.

The applicants consider that a smaller foodstore in such a central location will impact primarily on the largest foodstore in Dunoon (i.e. Morrisons) with expected 22% convenience trade diversion and 8% on other convenience outlets in the town centre. The impact on the Co-op has not been assessed as this store is outwith the town centre and

does not enjoy the same degree of protection afforded by Local Plan Retail Policy as the town centre as a whole. With regard to comparison expenditure there is estimated to be a 2.8% impact on the turnover of town centre comparison good retailing. The impact on the town centre convenience and comparison retailing are calculated to be 9.5% on the town centre as a whole (including Morrisons) While the two retail assessments cannot be compared directly with each other because different approaches have been used the CWP proposals estimate that their larger store will trade at 75% of company averages with a 15% impact on Morrisons and 8% on the other town centre convenience shops. In relation to comparison retailing they estimate a 3.7% impact, and overall an 8% impact on town centre retailing.

Given all of the above, the application is considered to represent a ‘minor departure’ to Policy PROP SET2 of the Argyll and Bute Structure Plan and Policy LP RET 1 part (D) of the Argyll and Bute Local Plan where there will still be convenience/comparison trade diversion from the town centre but this has to be balanced with the potential increased footfall by linked trips to a new foodstore on a prominent vacant brownfield site within walking distance of the existing town centre and expected clawback from outwith the catchment.

No objections have been raised from statutory consultees in respect of transportation matters, flood risk, contamination and environmental concerns and safeguarding conditions are recommended below to address any concerns.

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**(Q) Is the proposal consistent with the Development Plan:** No – ‘minor departure’ to part (D) of Policy LP RET 1 of the Argyll and Bute Local Plan.

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**(R) Reasons why Planning Permission in Principle should be Granted**

The proposal is considered consistent with parts (B), and (E) of Policy LP RET 1 of the ‘Argyll and Bute Local Plan’ in that it would promote the use of a prominent vacant ‘brownfield’ site within a sequentially preferable site within an edge of centre location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate against any perceived impact on the existing town centre.

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**(S) Reasoned justification for a departure from the provisions of the Development Plan**

The proposal is considered consistent with parts (B), and (E) of Policy LP RET 1 of the Argyll and Bute Local Plan in that it would promote the use of a prominent vacant ‘brownfield’ site within a sequentially preferable site within an ‘edge of town centre’ location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate such a degree of anticipated impact on the existing town centre, and therefore a ‘minor departure’ to Policy LP RET 1 is justifiable in these circumstances.

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**(T) Need for notification to Scottish Ministers or Historic Scotland:** No.

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**Reviewing Officer: David Eaglesham**

**Date: 7<sup>th</sup> September 2011**

**Angus Gilmour  
Head of Planning & Regulatory Services**

## **CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/00689/PPP**

1. This permission is granted in terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application for planning permission in principle and the further approval of Argyll and Bute Council or of the Scottish Minister on appeal shall be required with respect to the under-mentioned additional matters (to be applied for within an application/s of matters specified in conditions) before any development is commenced.

- a. The siting, design and external appearance of the proposed development.
- b. The landscaping of the site of the proposed development.
- c. Details of the access arrangements.
- d. Details of the proposed water supply and drainage arrangements.

*Reason: To comply with Section 59(1) of the Town and Country Planning (Scotland) Act 1997.*

2. In the case of the additional matters specified in (1) above, an application/s for compliance with this condition, in terms of Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 must be made to Argyll and Bute Council before whichever is the later of the following :

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

and in the case of b and c above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

*Reason: In accordance with Section 59(1) of the Town and Country Planning (Scotland) Act 1997*

3. In the case of the application for approval of matters specified in condition (1) above, the development to which the permission relates must be begun within 2 years of the date of this approval; or in the case of there being other matters remaining outstanding 2 years from the date of such further approval; or such other period as the planning authority may determine, provided that such a further application can be submitted in accordance with the approved timelines specified in the ongoing planning permission in principle.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.*

4. The development shall be implemented in accordance with the details specified on the application form dated 5<sup>th</sup> May 2011 and the approved drawing reference numbers: 1:1250 Location Plan (PL)001, 1:500 Illustrative Foodstore Layout (PL)002 RevB, 1:250 Proposed Foodstore Illustrative Elevations (SK)004, 1:500 Former Gas Works Site Survey GJ169/CDA/02 Rev0, unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

5. The net convenience sales area of the development shall not exceed 1448 sq.m. and the net comparison sales area shall not exceed 552 sq.m.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the submitted retail assessment.*

6. The level of noise emanating from the site shall not exceed 40dB(A)  $L_{night, outside}$  nor 45dB  $LA_{eq(5\ mins)}$  nor 60 dB  $LA_{max}$  between 23:00 hours and 07:00 hours and must not exceed 50 dB  $eq(1\ hour)$  at any other time. The level of noise from the site is to be measured at the facade of the nearest noise sensitive receptor for daytime noise.

*Reason: In the interests of public health and amenity.*

7. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from fixed plant and/or machinery has been submitted to and approved in writing by the Planning Authority. The development shall not commence until the measures in the approved noise prevention scheme operate to the satisfaction of Public Protection.

*Reason: In the interests of the amenity of surrounding properties.*

8. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from service yard activity has been submitted to and approved in writing by the Planning Authority. Such a scheme shall provide for an acoustic barrier or other similar noise control measures. The development shall not commence until the acoustic barrier or other measures in the approved noise prevention scheme shall be installed in its approved form prior to the start of any other constriction process on site.

*Reason: In the interests of the amenity of residents at McArthur Street.*

9. Prior to any works commencing on site, the applicant shall have regard to the Scottish Executive Guidance Note Controlling Light Pollution and Reducing Light Energy Consumption (March 2007) and follow the lighting design process described in the Guidance Note. The information recorded should be of good standard to enable the lighting submission proposal to be evaluated. All lighting proposals shall be submitted to and approved in writing by the Planning Authority in consultation with Public Protection.

*Reason: In order to avoid the potential of light pollution infringing on surrounding land uses/properties*

9. No development or any works whatsoever shall take place on site until an assessment of the condition of the land has been undertaken and has been approved in writing by the Planning Authority in consultation with the Public Protection Unit. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites. Where such risks are identified then a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be prepared, and is subject to the approval of the Planning Authority in consultation with the Public Protection Unit. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

10. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any development with the exceptions of those actions required to

carry out remediation, unless otherwise agreed, in writing, with the Planning Authority, in consultation with the Public Protection Unit. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation shall be produced, and subject to approval in writing of the Planning Authority in consultation with the Public Protection Unit.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

11. In the event that contamination was not previously identified is found at any time when carrying out the approved development it shall be reported in writing immediately to the Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is deemed necessary then a remediation scheme shall be prepared in accordance with the requirements of condition 8 above which is subject to the approval in writing by the Planning Authority. Following completion measures identified in the approved remediation scheme a verification report shall be prepared which is subject to the approval in writing by the Planning Authority in accordance with condition 10 above.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

12. Before development commences, an Environmental Action Plan shall be submitted to and approved in writing by the Planning Authority. This plan shall address issues such as foul drainage, contamination, the potential for dust, mitigation measures to be adopted and the methods of monitoring and recording matters relating to dust control, all to the satisfaction of the Planning Authority in consultation with the Head of Public Protection.

*Reason: In the interests of public health and amenity.*

13. Prior to the commencement of any works, full details of a compensatory flood storage scheme (designed to include the 200 year plus 50% culvert blockage scenario) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved scheme.

*Reason: In order to maintain the capacity of the floodplain.*

14. No development shall commence until a condition survey of the training walls that are to be retained on site has been carried out and submitted to and approved in writing by the Planning Authority. Such a study shall include full details of any remedial works to be carried out and these works addressed as part of the proposed development.

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

15. Prior to submitting the detailed design, a site investigation including CCTV to locate and identify existing pipe work shall be carried out. Full details including a marked up site plan identifying any implications to adjacent roads drainage shall be submitted to the Planning Authority in consultation with the Roads Authority for written approval

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

16. The pathway for overland flow during 1:200 annual exceedence probability (AEP) at Hamilton Street Bridge shall be designed and submitted to the Planning Authority in consultation with the Roads Authority for written approval. Such information shall show the pathway for overland flow re-entering Milton Burn as close to the bridge as possible. The designer is advised to liaise directly with the Council's Design Services (refer to Advisory Note 6 below).

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

17. Any details pursuant to Condition 1 (d) above shall provide for full drainage details including foul drainage details, and a SuDS scheme with methods to deal with surface water drainage of the site. Prior to the commencement of any works, such a SuDS scheme shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.

*Reason: In order to provide for sustainable development of the site, and to protect existing and proposed development from the effects of potential increased surface water run-off to surrounding areas.*

18. Within a minimum of two months from the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved method statement.

*Reason: To control pollution of air, land and water.*

19. Any details pursuant to Condition 1 (b) above shall provide for a full tree survey, landscaping scheme and boundary treatment incorporating a plan (at a scale of 1:200 or greater) to indicate all trees, shrubs and other features to be retained, felled and replanted. This scheme shall specifically include the age species and location of tree planting as suitable screen planting around the application site (that shall be planted as heavy standards) and method to protect surrounding/overhanging trees during and after construction. No trees shall be felled without prior written approval of the Planning Authority in advance of approval of a tree planting scheme.

*Reason: In order to integrate the proposed development within its surroundings.*

20. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the site foul drainage system can be connected to the public sewerage system.

*Reason: In order to provide for sustainable development of the site, and to avoid any unacceptable adverse impact on the water environment.*

21. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the proposed development can be served with a water supply from the public mains system.

*Reason: In order to ensure that the proposed development can be connected to the public water main.*

22. No works in connection with the development hereby approved shall take place unless a Waste Management Plan for the site has been submitted to and approved in writing by the Planning Authority in consultation with Protective Services and the Scottish Environment Protection Agency. This plan shall include details of the arrangements for the storage, including the design and location of all bin stores together with the separation and collection points for waste from the site or roadside collection points, including provision for the safe pick up by refuse collection vehicles. The approved Waste Management proposals shall be carried out in accordance with the approved scheme.

*Reason: To ensure the waste from the proposed site is dealt with in a sustainable manner in accordance with the National Waste Strategy for Scotland and the Area Waste Plan for Argyll & Bute.*

23. No development, including any site works, shall commence until a detailed design for the junction between Hamilton Street and Argyll Street has been submitted to and approved in writing by the Planning Authority in consultation with Roads. Such detailed design shall

mitigate the reduced junction capacity due to the predicted traffic volumes generated by the development and the base line traffic.

*Reason: In the interests of road safety.*

24. The visibility splays required for the Hamilton Street access shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road. Additionally, a minimum of 25 metres is required as forward visibility from Argyll Street onto Hamilton Street.

*Reason: In the interests of road safety.*

25. The Hamilton Street access shall be a minimum width of 6 metres with radii of 6 metres. The gradient of the access shall not exceed 5% for the first 10 metres or 8% for the remainder. The location of this access is some 35 metres from Argyll Street junction, the access should be moved as far from Argyll Street as the site will permit.

*Reason: In the interests of road safety.*

26. The visibility splays required for the service access on Argyll Street shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road.

*Reason: In the interests of road safety.*

27. The gradient of the service access onto Argyll Street shall not exceed 5% for the first 10 metres or 8% for the remainder. Provision shall be made within the service bay to ensure that all vehicles must be able to enter and leave in a forward manner.

*Reason: In the interests of road safety.*

## **ADVISORY NOTES TO APPLICANT RELATIVE TO APPLICATION: 11/00689/PPP**

3. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
4. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
5. In respect of conditions 15, 16 & 17 above, the applicant/developer is advised to liaise directly with the Council's Design Services. It is also advised that digital copies of the as built drainage system must be supplied on completion of the works. Periodically the Local Authority must inspect the watercourse therefore a means of access to the Milton Burn should be provided in the detailed design (refer also to condition 16). Please contact the Council's Flood Risk Management Team in the first instance. Contact Mr. Grant Whyte, Blairvadach House, Shandon, tel 01436-658868.
6. The attention of the applicant/developer is drawn to the comments received from SEPA in their response letters dated 6<sup>th</sup> June, 25th July, and 23rd August 2011. SEPA highlight various issues regarding flood risk, surface water drainage (SuDS), pollution prevention and environmental management, space for waste management provision within the site layout, submission of a Construction Method Statement and Regulatory Advice regarding works within the floodplain and/or watercourse that will require authorisation via a CAR licence from SEPA through the Controlled Activities Regulations (Scotland) Act. The applicant/developer is strongly advised to contact SEPA prior to making detailed designs for the scheme. Please contact Nicola Abrams, Senior Planning Officer, Planning Service, Aberdeen Office, Inverdee House, Baxter Street, Torry, Aberdeen AB11 9QA, tel. 01224 266698 or by e-mail at [planning.aberdeen@sepa.org.uk](mailto:planning.aberdeen@sepa.org.uk).
7. The applicant/developer is advised that in terms of construction noise the Public Protection Service will use powers under the Control of Pollution Act 1974 to control the noise from construction work.

It is envisaged that, in order to comply with the above controls, construction operations within the site may require being restricted to the hours of 0800 to 1800 Monday to Saturday only and at no times on Sundays and Bank Holidays.

In addition, all vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.

Prior to the commencement of any construction or engineering works, the applicant is requested to discuss with the Council's Public Protection Unit (Mrs. Jo Rains, tel. 01369 707120 ext 24) measures that will be put in place to control noise from the site. It should be noted that any agreement made at this time will not preclude any action being taken under Section 60 of the Control of Pollution Act 1974 should it be deemed necessary.

8. Notwithstanding the extensive work to remediate contaminated land, the Council's Public Protection Service advises that the remediation must be appropriate to the intended use. Given the nature of the use of the site, there is still potential for contamination to exist and specific conditions (9-11) have therefore been imposed on this permission. Should the applicant/developer wish to discuss matters relating to possible contamination of the site and the submission of a Remediation Plan, he should liaise directly with Mrs. Jo Rains, Area Environmental Health Manager, tel. 01369-707124) regarding these issues.
9. The applicant is advised by Scottish Water that :

- Scottish Water has no objection to this planning application. Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk).
- In terms of planning consent, Scottish Water does not object to this planning application. However, please note that any planning approval granted by the Local Authority does not guarantee a connection to our infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.
- Due to the size of this proposed development it is necessary for Scottish Water to assess the impact this new demand will have on our existing infrastructure. With any development of 10 or more housing units, or equivalent, there is a requirement to submit a fully completed Development Impact Assessment form. Development Impact Assessment forms can be found at [www.scottishwater.co.uk](http://www.scottishwater.co.uk).
- Loch Eck Water Treatment Works currently has capacity to service this proposed development.
- Dunoon (Alexandra) Wastewater Treatment Works – at present there is limited capacity to serve this new demand. The Developer should discuss their development directly with Scottish Water.
- In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will require to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.
- Scottish Water is funded to provide capacity at Water and Waste water Treatment Works for domestic demand. Funding will be allocated to carry out work at treatment works to provide growth in line with the Local Authority priorities. Developers should discuss delivery timescales directly with us. Developers should discuss delivery timescales directly with us.
- If this development requires the existing network to be upgraded, to enable connection, the developer will generally meet these costs in advance. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules. Costs can be reimbursed by us through Reasonable Cost funding rules
- A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.
- These proposals may involve the discharge of trade effluent to the public sewer and may be subject to control as defined in Part II of the Trade Effluent Control and Charging Scheme. No substance may be discharged to the public sewerage system that is likely to interfere with the free flow of its content, have detriment to treatment / disposal of their contents, or be prejudicial to health.

- An appropriate water storage system Water storage equivalent to 24 hours usage is recommended for commercial premises. Details of such storage installations must be forwarded can be discussed to Scottish Water's Customers Connections department at the above address.
- It is possible this proposed development may involve building over or obstruct access to existing Scottish Water infrastructure. On receipt of an application Scottish Water will provide advice that advice that will require to be implemented by the developer to protect our existing apparatus.
- There may be contaminated land issues relevant to the development of this site. The developer must ensure that satisfactory precautionary measures are taken to protect public water and sewer pipes from any possible contamination. The developer may have to submit a full soil investigation report to Scottish Water. Customer Connections will be able to provide advice on this subject. on request.
- Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

For the advisory notes above, the applicant/developer is advised to contact Scottish Water directly (Planning and Development Services, 419 Balmore Road, Glasgow G22 6NU, Stephen Kelly, Customer Connections, Tel. 0141 355 5511 or at [www.scottishwater.co.uk](http://www.scottishwater.co.uk))

10. The applicant is advised by the Council's Roads Engineer that :

- Dropped kerbs are required to provide a safe crossing point for pedestrians, provision for pedestrian crossing points will be required to be agreed by Roads;
- Traffic Management is required within the site along with a defined drop off and pick up point;
- A positive surface water drainage system to be provided to prevent water running on to the footway and carriageway;
- No signs will be allowed to be within visibility splays and if illuminated unable to shine directly onto passing traffic;
- If gates are to be fitted they must be over 15 metres back to allow HGVs to pull completely off the carriageway. Dropped kerbing to be provided on the radii for safe pedestrian access;
- A Road Opening Permit (S56) will be required for all works on or adjacent to the road;
- Suitable boundary treatments are required to provide safe pedestrian access and screening to reduce potential of headlights within car park dazzling other road users.

*The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell (tel. 01369 708613) directly on these matters.*

## **APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00689/PPP**

### **PLANNING LAND USE AND POLICY ASSESSMENT**

#### **A. Settlement Strategy**

Argyll and Bute Structure Plan policy STRAT DC 1 supports development that serves a wide community of interest including ‘large scale’ development on appropriate infill, rounding-off and re-development sites. Developments which do not accord with this policy are those which are essentially incompatible with the close configuration of land uses found in settlement e.g. development which results in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.

PROP SET 2 of the ‘Argyll and Bute Structure Plan’ seeks to sustain the viability and vitality of town centres where a sequential approach to retail development will be adopted. Policy LP RET 1 of the ‘Argyll and Bute Local Plan’ states a presumption in favour of retail development (Use Classes 1, 2 and 3) provided it is within a defined town centre or where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre. Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport and that there would be no significant detrimental impact on the vitality or viability of existing town centres and the proposal is consistent with other Structure and Local Plan policies.

The application site lies within the ‘Main Town’ settlement of Dunoon and within the ‘Edge of Town Centre’ zone as defined in the ‘Argyll and Bute Local Plan’ (August 2009).

The application site also lies within Area for Action AFA 2/2 as identified in the ‘Argyll and Bute Local Plan’. AFA 2/2 – Dunoon-Arghyll Street/Hamilton Street/Victoria Road is identified as a local area for action with development and environmental enhancement prescribed. Such areas should be the focus for partnership or community action and may include investment and funding packages, land assembly and asset management programmes, development and redevelopment proposals, infrastructure provision, and environmental enhancement proposals.

Schedule R1 of Policy LP RET 1 of the ‘Argyll and Bute Local Plan’ defines ‘large scale’ retail development as being in excess of 1000sq m gross floor space (the proposal is for 2,932sq m sq m gross external / 3,225sq m gross internal). In addition, Structure Plan Policy PROP SET 3 promotes the use of ‘brownfield’ sites over ‘greenfield’ sites in the interests of sustainable development.

Dunoon currently has two large scale retail foodstores, Morrisons and the Co-op, located in the Main Town Centre and Edge of Town Centre zones respectively. In terms of the retailing policies above, and on the basis that no suitable sites exist within the town centre, the proposed large scale retail foodstore is within the preferred ‘Edge of Town Centre’ zone.

In terms of settlement strategy, development of this ‘brownfield’ site would be consistent with the aspirations of AFA 2/2 in developing a prominent Edge of Town Centre site located adjacent to Argyll Street and in close proximity to Dunoon Town Centre.

**Accordingly, in terms of the settlement strategy, the proposal would be consistent with policies STRAT SI 1, STRAT DC1, PROP SET2, PROP SET3, PROP SET5 of the ‘Argyll and Bute Structure Plan’, and policies LP ENV1, LP ENV 19 and LP RET 1 of the ‘Argyll and Bute Local Plan’.**

## **B. Location, Nature and Design of Proposed Development**

### **i) Location**

The application site (1.12 ha) comprises the former Dunoon Gas Works site that is bounded by Hamilton Street to the north and A885 Argyll Street to the east. The site falls by some 4m southwards and westwards from the junction of Argyll Street and Hamilton Street. The Milton Burn runs north to south along the western and southern boundaries of the site. Beyond the Milton Burn to the west lie Council Depots and dwellings on Victoria Road that overlook the application site from a higher level. Residential properties on the northern side of McArthur Street are in close proximity and overlook the application site from the south. The site is bounded to the north by residential dwellings on Hamilton Street, a vacant funeral directors and vacant garage on Argyll Street. To the east of the site are the Co-op foodstore, Queen Street junction, monumental sculptor's yard, residential flats on Argyll Street/ Argyll Road junction and Dunoon Police Station.

### **ii) Nature and Design of Proposed Development**

The proposal involves the erection of a large scale retail foodstore (2,932 sq m / 31,560 sq ft gross external floor area). An indicative layout shows a rectangular footprint of a building some 61 x 45 metres on the southern portion of the site, orientated north-south with its main entrance frontage facing north towards Hamilton Street and long side elevation facing Argyll Street. Indicative elevational details have also been submitted at this stage.

The main vehicular access is proposed from Hamilton Street utilising the existing access. A secondary service access leading to a service yard is proposed off Argyll Street at the southern end of the site to the rear of the proposed building. A large car parking area is proposed between the foodstore building and Hamilton Street that would provide 125 parking spaces including wider bays for disabled spaces.

Whilst no end-user has been identified, the Retail Statement confirms that supermarket operators have expressed a direct interest in the site based upon the development of a store of the size proposed without a petrol filling station. The nature of the store will be predominantly focused on convenience goods to provide for main food shopping requirements but will also include a limited range of comparison goods. The proposed store has a gross internal floor space of 3,225 sq m / 34,714sq ft which includes a mezzanine floor of 393sq m/ 4230sq ft for plant and staff accommodation only.

The ground internal floor area of 2,832 sq .m will comprise an estimated 1,448 sq m net convenience goods floor space and 552 sq m comparison goods floor space (i.e. a 72/28 convenience/comparison split).

Policy LP ENV19 of the 'Argyll and Bute Local Plan' includes in Appendix A Sustainable Siting and Design Principles design guidance relative to 'Isolated/Commercial Development'; Whilst the location of the application site is not regarded as isolated, it is in a prominent edge of centre location and therefore the design criteria are considered to be relevant.

*18.1 the appearance of the development should be considered. The form and pattern of the landscape will largely determine the acceptability of the proposal.... The extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor.*

*18.2 When assessing the appearance of isolated commercial development, the Planning Authority will take the following into consideration:*

- The size and extent of the proposal. This includes the visual impact of the scheme and the distance/location from which it is visible;*

- *The location of the proposal and its landscape setting, including the way in which the development has used the natural contours of the site is of prime importance. A large building must be absorbed by the landscape as much as possible, whether by excavating and building into the landform, using existing landforms to mask the development or screening by new trees;*
- *The design and colour of the development(s) and ancillary structures can be used to minimise their perceived bulk and visual impact. Natural materials such as timber and stone will help to fit a large building into the landscape, as will dark natural colours (particularly on the roof).*

In their Design Statement, the applicants comment that the position of the building was determined by the width and configuration of the site, site levels with the higher part of the site at the northern end, site levels to suit servicing, location of service yard and level access from Argyll Street.

In terms of flood risk, the building will be designed to incorporate specific mitigation measures to set the ground floor level of the building above anticipated maximum flood level and to ensure that sufficient volume of flood relief capacity is retained on site. An area of lowered soft landscaping in the central western portion has been designated for flood relief.

The functional requirements of a supermarket dictate a simple rectangular form with glazed public entrance and canopy presented to face the car park. The location of the entrance allows convenient access from Argyll Street for both pedestrians and bus users. A bus lay-by is proposed on Argyll Street adjacent to the main entrance. Tree and screen planting is proposed along the Argyll Street elevation to conceal the service yard and to break up the long eastern elevation of the building.

Although a planning permission in principle application, the building is proposed to have a low-pitched powder coated profiled metal roof, screened behind parapet walls. External walls are proposed as a facing brickwork dado with a smooth metal panel system. The entrance lobby and adjacent shop frontage will be aluminium framed glazed screens/curtain wall with the frontage canopy clad in smooth metal panels.

A landscaping strategy is proposed to replace the self seeded specimens with strategically planted trees which will maintain and strengthen the wooded backdrop to the site whilst not impeding floodwater flow. Along the eastern edge of the site, it is proposed to locate trees with a shrubs/hedge to screen the eastern elevation of the building with a low brick screening wall around the car park.

All public access points and escape points will give directly level access from both the car park and footpath on Argyll Street.

It is acknowledged that the application is in principle only at this stage where only indicative building footprint and elevations have been submitted. Whilst the site of the building appears in an acceptable position, siting, design and materials will all be addressed in a detailed application. Given the indicative proposals above, it is considered that a proposed supermarket building could be accommodated on the site with scope for screening and to integrate with the wide variety of building types and uses that surround the site.

**At this stage, it is considered that the proposal is consistent with the provisions of Policy LP ENV 19 and Appendix A of the 'Argyll and Bute Local Plan' together with the Council's Design Guide.**

## C. Retail Policy Considerations

In policy terms, policy LP RET 1 of the Argyll and Bute Local Plan is the principal policy against which the proposal should be assessed.

### i) The Sequential Approach to Retail Development in Towns

Scottish Planning Policy (SPP), 'Argyll and Bute Structure Plan' Proposal PROP SET 2 and 'Argyll and Bute Local Plan' Policy LP RET 1 set out that a sequential approach to site selection for retail development will be undertaken to ensure that new development does not undermine the vitality and viability of existing town centres. The SPP and Local Plan sets out that site locations should be assessed in the following order:

- Town centre sites;
- Edge of centre sites;
- Other commercial centres identified within the development plan;
- Out of centre sites in locations that are, or can be made, easily accessible by a choice of transport modes.

#### Policy LP RET 1: Retail Development in the Towns – The Sequential Approach

There will be a presumption in favour of retail development (Use classes 1, 2 and 3) provided:

- (A) It is within a defined town centre; OR,
- (B) Where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre; OR,
- (C) Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport; AND IN ANY OF THESE CASES,
- (D) There is no significant detrimental impact on the vitality or viability of existing town centres ... AND,
- (E) The proposal is consistent with the other Structure and Local Plans policies.

The first aspect of LP RET 1 which requires to be considered is the availability of sites within Dunoon town centre, and then edge of town centre locations. Given the traditional nature of Dunoon town centre, it is accepted that there are no suitable sites within the town centre itself. Accordingly, the application site is considered to be the sequentially preferable site in locational policy terms and consistent with parts (A) and (B) above.

Despite suggestions by CWP that the former gas works is too small to accommodate a sufficiently sized foodstore, awkward site configuration and flooding issues, the applicants consider that their site represents a sequentially preferable site for retail development. Contrary to statements by CWP, they consider that neither the linear shape of the site nor the existence of a watercourse across it would detract from the marketability of the site to a modern foodstore operator nor inhibit its development. The agents confirm that the application site represents a significant brownfield redevelopment opportunity in close proximity to Dunoon Town Centre, sequentially preferable in retail terms to the site of the proposed out-of-town development by CWP. The owners of the site have confirmed that it would be available for retail development and confirm that the site has generated interest from supermarket operators.

In this instance, the Argyll and Bute Local Plan specifically included the former gas works site within the Edge of Town Centre zone as a potential redevelopment site and in the absence of a suitably large site within the town centre itself becomes the preferred site and therefore complying with criteria (B) of Policy LP RET 1 of the Argyll and Bute Local Plan in locational

terms. The remediation works carried out to this site have enabled the site ‘ready’ for development and the development of such a prominent ‘brownfield’ site is welcomed and consistent with policies STRAT SI1 Sustainable Development of the Argyll and Bute Structure Plan and Policy LP ENV1 of the Argyll and Bute Local Plan.

## **ii) Appropriate Scale and Location**

One of the main thrusts of Scottish Planning Policy is the recognition that “*town centres are a key element to the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilities .....the range and quality of shopping, wider economic and social activity, integration with residential areas and the quality of the environment are key influences on the success of a town centre*” (para 52).

The SPP also highlights the need for a hierarchical approach to town centres and that any significant changes in the evolving role and functions of centres should be addressed through development plans rather than changes being driven by individual applications. The SPP focuses on town centre strategies and states that the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. This should involve the use of vacant land and under-used land or premises. Actions to support improvements in town centres and to create distinctive and successful places are encouraged and these can range from small scale public realm works to assembly of larger scale development sites which aid regeneration.

The Argyll and Bute Structure Plan also stresses the importance of Dunoon Town Centre as an important shopping focus for the Main Town settlement and wider catchment. The retailing sector is an important component of the economy and fulfils a critical role in sustaining the viability and vitality of the Town Centre. Land use policies which support the competitive retail market have to be balanced with the need to secure the economic integrity of town centres and to support the use of public transport. The sequential test with a preference for retail developments over 1000sqm gross floorspace to be located in the town centres is appropriate given the limited size of the Argyll and Bute towns and their retail catchment populations.

Furthermore, the CHORD project has recently focussed investment within Dunoon Town Centre and this emphasises the role of the town centre as an economic, retail and tourist hub.

In conclusion, the proposed foodstore would be readily accessible by shoppers on-foot and is within easy walking distance from the existing town centre area enabling a greater number of linked trips. Additionally, given the comments in sections (i) and (iii) such a scale and location would be seen to generally complement rather than compete with the existing town centre.

## **iii) Impact on Vitality and Viability of existing Dunoon Town Centre**

The applicants generally concur with the findings of the CWP/James Barr Town Centre Health Check Appraisal that the existing town centre of Dunoon provides goods and services to meet generally daily needs of local residents. The applicants also concur with the CWP/James Barr findings that Dunoon town centre has a very healthy occupancy rate with relatively few vacancies and that the nature and range of comparison retailers will continue to be a draw to the town centre. Whilst there are some convenience units within the town centre, the main provision is the existing Morrisons store located within the town centre. Both Morrisons and the Co-op exhibit visible signs of over-trading with goods being sold directly from the sales floor. Over-trading is suggestive of wider qualitative deficiencies within the catchment. The Morrisons store has been refurbished recently indicating a facility trading well.

Unlike the CWP proposal to site a foodstore out of town, a new retail foodstore in an ‘edge of centre’ location creates more opportunity to encourage a linking of trips which will ultimately encourage greater support to the town centre as customers visit both for their main food shop, specialist retail shopping and services and comparison retailing.

The applicants also support the view taken by CWP that a high proportion of residents undertake their main food shopping outwith the catchment at centres including Inverclyde and West Dunbartonshire. The applicants suggest that given the nature of Dunoon’s catchment, there will always continue to be a leakage of expenditure to higher order centres particularly for comparison goods. This trade leakage is estimated in both RIA’s to be of the order of 40%, although a degree of scepticism is warranted as regards the assumptions leading to such a conclusion, as it is not based upon empirical evidence gathered in similar circumstances based upon experience with previous developments elsewhere. As it is essentially a forecast of the aggregated consequences of individuals’ future spending decisions, it necessarily has some element of doubt surrounding it.

A retail impact assessment attempts to estimate the potential impact of a new retail development on existing retail provision (particularly within town centres). This involves defining the catchment area of the town, establishing the population of the area, and then calculating the average retail expenditure of the catchment population. This is then compared with an assessment of the turnover of the retail floorspace within the catchment area. Where a surplus is identified this is either considered as export expenditure or attributed as additional expenditure for existing retailers within the catchment area. Having quantified the level of turnover of existing retailers and the available expenditure within the catchment, and the amount exported to other centres, it is then possible to establish if there is sufficient expenditure to support additional floor space. There are a considerable number of variables in these calculations, and a number are based on averages and estimates, and others are relatively subjective.

The following table provides extracts from the tables in the revised retail statement submitted by the applicants in support of their application:

	<b>2010</b>	<b>2014</b>
a. Population of Catchment	15,412	15,465
b. Convenience expenditure per capita	£2,079	£2,195
c. Total convenience expenditure a x b	£32,033,624	£33,941,967
d. Comparison expenditure per capita	£2,735	£3,109
e. Total comparison expenditure a x d	£42,155,285	£48,067,043
f. Estimated convenience turnover in catchment	£22,551,965	£23,514,611
g. Estimated comparison turnover in catchment	£25,000,000	£25,000,000
h. Surplus convenience expenditure c – f	£9,481,659	£10,427,356
i. Surplus comparison expenditure e - g	£17,155,285	£23,067,043

The surplus expenditure is generally taken to represent the amount of money spent by residents of the catchment area in shops outwith Dunoon and Cowal, and in theory would be available to support additional floorspace within the catchment. However, the extent to which this exported expenditure can be retained or clawed back depends on a number of factors, and varies between convenience and comparison goods, and proximity and size of competing retail centres. For the purposes of the assessment of retail impact, the effects of tourism expenditure on the catchment have not been considered.

The Retail Statement suggests that, given the limited nature of the existing convenience retail provision within the defined town centre, a proportion of trade will be diverted from Morrisons

and the Co-op. Due to its current share of the market, the main town centre impact will be on Morrisons and it is likely that the impact upon Morrisons will readjust its market share and lower its turnover ratio. The proposed larger foodstore will 'claw back' a significant proportion of that expenditure lost from the catchment as residents instead utilise the new foodstore for their main food shop.

In the context of the proposed development, given the rural nature of the catchment and existing provision, the proposed store would, in all likelihood, trade below any individual operator average, or indeed culmination of operators averages. An example is Tesco in Campbeltown who accepted that their store would trade at 75% of the national company average. For the purposes of their retail analysis, a figure of 80% of the national company averages has been used by the applicants. The following table outlines the effect of these two different approaches on the floorspace of the store as envisaged in the retail analysis:

Floor space	Average turnover ratio	80% of Average turnover ratio	Turnover based on Average ratio	Turnover based on 80% of average ratio
Convenience 1,448sq.m.	11,545	9,236	16,717,160	13,373,728
Comparison 552sq.m.	4,618	4,618	2,549,136	2,549,136
Total turnover	-	-	19,266,296	15,922,864

Using the 80% of company average turnover, it is estimated that the turnover of the proposed retail foodstore would be in the region of £15.9m with the convenience element being £13.3m. It is assumed that the scale of the proposed foodstore will draw a small proportion of trade from outwith the primary catchment. Assuming that 10% of trade is drawn from outwith the catchment, the turnover of the proposed store would equate to some £14.33m being derived from the primary catchment, £12.04m of which relates to convenience expenditure. This 10% of trade is likely to include a proportion of tourist trade.

When compared to the turnover of existing convenience retail provision within the catchment, there appears to be a surplus of around £10.42m of available convenience expenditure from within the catchment at 2014. This surplus expenditure is either spent in shops outwith the catchment area and is referred to as leakage from the catchment, or is spent in shops within the catchment area where it is assessed as overtrading. This £10.42m surplus expenditure equates to some 30% of total available convenience expenditure and is considered potentially available to support additional retail provision within the catchment.

The applicant's RIA estimates that the proposal would have an 8% negative impact upon the existing town centre. This calculation does not include the existing Morrisons store which is also located in the town centre so should be included for the purposes of assessing vitality and viability, in which case a negative impact of 20.5% is produced. However, if both convenience and comparison turnover is taken into account (which is legitimate in terms of assessing the overall vitality and viability of a centre) then the anticipated negative impact on the centre overall reduces to 9.5%. The impact of the CWP proposal on the town centre is estimated in their RIA to be 8.0% but because of differing assumptions employed in the production of these assessments (percentage of average turnovers attributed by the consultants to the proposed stores and also differences in the proportion of turnover attributed to clawback of leaked expenditure), no reliable comparisons may be drawn between the two assessments (officers did not accept some of the principles underpinning the CWP retail impact assessment). What is clear is that an out-of-town development with a greater floorspace and with a higher proportion of comparison sales, by virtue of its peripheral location, its scale and its greater competition with goods sold by smaller retailers in the town, will necessarily have more impact upon trading in the town centre than this lesser scaled proposal in a sequentially preferable location which poses less competition with

existing comparison outlets and a greater potential for linked trips with other businesses in the town.

### **Assessment**

In addition to assessing the expenditure capacity of the catchment area population, the applicant's retail impact assessment seeks to calculate the likely impact of the proposed new floorspace on the existing retail provision within the catchment, and more particularly Dunoon town centre. In assessing the impact on existing floorspace consideration has been given to a number of factors. These include; the amount of expenditure currently spent outwith the area; an assessment of the capacity of the new store to claw back that expenditure; and the extent to which the new store will compete with existing retail floorspace thereby diverting trade from them to be spent in the new shop. Also to be taken in to consideration, is the extent to which tourism expenditure and trade from people living outwith the primary catchment area e.g. Inveraray contribute to the expenditure available to support retailing in Dunoon. These variables could have a significant effect on the predicted impact on the town centre.

Table 1 below includes a compilation of floorspace comparison figures extracted from the Retail Statement to illustrate some of the comments made in this section and scale/impact of the proposed foodstore.

	<b>Proposed Store</b>	<b>Proposed CWP Store</b>	<b>Existing Morrisons</b>	<b>Existing Co-op</b>	<b>Town Centre Shops</b>	<b>Out of Centre Shops</b>
<b>Gross Floor Area</b>	2,932sqm	3,716sqm	(2,145sqm*)	(1,250sqm*)	-	-
<b>Net Retail Area</b>	2,000sqm	2,228sqm	1,035sqm	1,000sqm	500sqm	200sqm

*\*Gross external floor area taken from G/S plan, not from agent figures.*

The applicants have submitted figures which demonstrate the effect that they believe the new store will have on the turnover of existing stores. This indicates that taking all of the above factors into consideration, that the proposed store will have an impact of 22% on Morrisons and 8% on the turnover of convenience stores within the town centre, based on 80% of company averages. On this basis the convenience impact on the town centre as a whole would be 20.5%. The impact on the turnover of other convenience stores in Dunoon outwith the town centre (including the Co-op) and convenience shops in villages has not been calculated as it does not enjoy the same degree of policy protection. Expected comparison trade diversions on the town centre (including Morrisons) is 2.8%. The overall impact on the town centre (convenience and comparison) is 9.5%. If company averages are used then the convenience impact on Morrisons would be 28% and 10% on other convenience outlets in the town centre.

By comparison, the CWP scheme anticipated a 14.7% impact on convenience shops within Dunoon Town Centre and 3.7% impact on comparison goods.

### **Methodology**

For the purposes of retail impact assessment and in any comparison with the CWP proposal, base year is taken to be 2010 with a forecast year of 2014 and prices are based at 2007. Whilst the applicant's agents have used information from the James Barr Planning and Retail Statement, it is still considered that information derived from the National Survey of Local Shopping Patterns (NSLSP) is not sufficiently robust to be applied at a local level and is not an appropriate tool for estimating the turnover of existing retail floorspace. A well designed household survey (Scottish Government's 2007 research paper) is deemed more reliable

where key matters such as specific stores used by main food shoppers, reason for visiting certain stores, how they travel, whether they are undertaking linked trips and how much they spend in each store can all be quantified.

In terms of NSLSP, it is considered that company average turnover rates should be used to model the turnover of existing and proposed retail floorspace and for a robust estimate of retail impact to be gauged. However the applicants have preferred to use 80% company averages in their retail assessment as compared to 75% used in the CWP scheme. This is one of the reasons why the two assessments cannot be directly compared with each other.

Similar to the CWP scheme, it is considered that the Retail Statement has not adopted a broad-based approach but instead has attempted detailed calculations or forecasts of a sector's growth where small variations or assumptions can lead to a wide range of forecasts. In relation to the Retail Statement, the turnover of the proposed store has been estimated as 80% of the average of the top 4 supermarket retailers. It is considered that it may have been more appropriate to use the average turnover of these four retailers, in terms of predicted impact rather than a percentage of their average turnovers.

The applicants concur with the views expressed by CWP/ James Barr on the Town Centre Health Check Appraisal. However, no supporting information has been submitted to justify the agent's comments that "the town centre does appear to be very healthy" as they have not provided details of comparable towns which could provide a basis for their assessment. It was previously considered that the CWP's Town Centre Health Check was subjective in nature and did not reflect the more fragile nature of Dunoon's High Street and other retailing areas where vacant units, charity shops and poor shop frontage design should perhaps result in a lower score. It should also be recognised that a significant amount of works have been undertaken on town centre renewal projects to promote an otherwise fragile town centre. The town centre will continue to be the focus for such projects in an attempt to revitalise the town centre area. The departments own survey work on the health of Argyll and Bute town centres reveals that Dunoon sits somewhere in the middle of these with regard to a range of indicators (vacant shops, condition of shop front, signage etc) town centre health.

## **Conclusions**

The Retail Statement confirms that the main source of trade diversion will be predominantly from Morrisons (22% at 80% company average) but also from the Co-op store (% impact not stated as an out-of-town centre location) and will also have an expected 8% impact on other convenience stores within Dunoon Town Centre

The size of the proposed foodstore, that would be larger than Morrisons and more than twice the floorspace of the Co-op, has been designed by the applicants specifically not to 'compete with the larger CWP foodstore proposal in terms of the sequential test but does represent a realistic and commercially attractive proposal of an appropriately sized foodstore, car park and service yard for the site. However, given the smaller size of the foodstore, it would still be capable of arresting a significant amount of leaked convenience expenditure outwith the catchment (where the CWP scheme had greater comparison floorspace) but would introduce a third supermarket to Dunoon which would compete directly with existing supermarkets.

Given all of the above, it is considered that the proposed foodstore and associated development is consistent with the adopted Argyll and Bute Local Plan policy LP RET 1 part B, as no suitable sites are available within Dunoon Town Centre and the application site is within the defined Edge of Town Centre. However it is not entirely consistent with part (D) in that there would still be an impact on the town centre as a result of the proposed development. However, the scale and location of the store would result in greater linked trips within the town centre and edge of centre zones and is well located in terms of pedestrian accessibility and public transport routes. Given the retail analysis, it is considered that the main impact would be on the existing Morrisons store but with a further lesser impact (8%) on smaller town centre convenience shops and 2.8% on town centre comparison shops. Overall

the impact would be 9.5% on the vitality and viability of retailing in the existing town centre. It is however considered that a developer contribution for town centre improvements could help to offset some of this predicted negative impact.

*On the basis of the above and in terms of the Retail Sequential Test and impact on Dunoon Town Centre and other retail outlets, the proposal is considered to represent a ‘minor departure’ from Policy LP RET 1 part (D) of the Argyll and Bute Local Plan (August 2009) by virtue of a predicted negative impact on the existing town centre. This scale of this negative impact would be offset in this case by the proposed store’s edge of centre location within walking distance of the town centre and with potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate anticipated impact on the existing town centre, and therefore a ‘minor departure’ to Policy LP RET 1 is justifiable in these circumstances.*

#### **F. Road Network, Parking and Associated Transport Matters**

The submitted Transport Assessment concludes that the proposed development has a potentially significant impact during one time period on the Hamilton Street and Argyll Street priority junction but this impact can be mitigated with the installation of traffic signals. The proposed development is located adjacent to existing public transport facilities with a bus stop on Argyll Street. The site is well served by the existing footway network on Hamilton Street and Argyll Street providing access to local residential areas and local public transport facilities. The site is easily accessible by a range of transport modes. Car parking levels complies with National Parking Standards and cycle parking will be provided.

In terms of junction design, various options have been tested including ‘as existing’, mini-roundabout, give-way signs, right hand turning lane but the provision of traffic signals appears to be the preferred option and the eventual phasing has still to be agreed with Roads.

A revised site layout plan incorporates changes suggested by Roads and these include moving the main vehicular access further west to maximise queuing space, increased car parking spaces, provision of a bus lay-by on Argyll Street adjacent to the entrance to the foodstore and provision of a pick-up / drop-off point at the front of the store.

Roads have accepted the diameter of the service bay on the basis that delivery vehicles must enter and leave the service yard in a forward manner.

Roads have no objections in principle to the proposed scheme subject to conditions outlined below.

*On the basis of general acceptance and the imposition of necessary planning conditions, the proposal is considered to be consistent with Policies LP TRAN 1, TRAN 2, TRAN 3, TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan (August 2009).*

#### **G. Flooding and Surface Water Drainage**

A ‘Flood Risk and Drainage Assessment’ submitted by the applicants’ consultants Dougal Baillie Associates (DBA) concludes that the majority of the site is at little or no risk of fluvial flooding from the Milton Burn. A small area of the site on the western side is at risk of flooding and the area is therefore classed as being active functional flood plain with a medium to high risk of flooding. To ensure that the site is not at risk of flooding, it is recommended that a minimum floor level of 12.95m AOD includes a freeboard allowance which will also require a degree of land raising within the functional flood plain. To ensure a neutral impact, provision on-site compensatory flood storage is incorporated into the scheme design to replace lost capacity, with an identified location for such, although it is intended that the specification and

corresponding calculations demonstrating performance of the compensatory flood storage provisions will be undertaken at the detailed design stage. Any works within the watercourse will require authorisation by SEPA through a licence issued under the Controlled Activities Regulations (CAR authorisation).

It is proposed to discharge surface water run-off to the adjacent Milton Burn as this will be at least equal to natural Greenfield runoff release rates and will be provided by using a range of SuDS source control measures.

SEPA considered the revised proposals acceptable subject to conditions regarding the provision of compensatory flood storage, SuDS scheme, a construction method statement and advice on waste management, flood risk, SuDS, pollution prevention and CAR licence for any land raising in the functional flood plain.

The Council's Flood Alleviation Team also found the proposals acceptable subject to conditions regarding the detailed design and means of access to the watercourse for inspection purposes, a condition survey of the training walls detailing any remedial works to be carried out, a site investigation including CCTV to locate and identify existing pipework with any impacts identified on adjacent roads drainage and pathway at Hamilton Street Bridge to be designed and provided. CAR Licence required from SEPA.

Letters of objection have been received from James Barr / Kaya Consulting Ltd. On behalf of the CWP proposal that raise issues on the validity of the flood risk assessment by DBA, the existence of another flood risk assessment by Carl Bro (CB) and responses received from SEPA and the Council's Flood Alleviation Group.

Kaya suggest that DBA undertook their flood risk assessment without reference to the more extensive flood modelling study undertaken by Carl Bro where their predicted flood levels are around 0.65m above the DBA levels at the downstream end of the site. Any overtopping would result in a greater part of the site being flooded and the Council should have either investigated the reasons for conflicting reports or accepted the higher predicted flood levels. Additionally, limiting the amount of land that can be raised for development and maintaining existing overland flow paths will reduce the size of the proposed development which could affect the viability of the development.

DBA have provided additional supporting information in respect of the matters raised by Kaya. In respect of differences in the Milton Burn flood level estimations as outlined in the DBA Report when compared to the CB FRA at the Argyll Street Bridge inlet, DBA consider that the modelling was carefully developed to ensure that head losses associated with the sharp bends immediately downstream of the Argyll Street bridge were modelled as accurately as possible and that the simulation predicts a water level that is very close to the CB estimate.

In respect of differences in the Milton Burn inundation maps as outlined in the DBA Report when compared to the CB FRA, DBA consider that the DBA findings are based on a present day (2011) survey and watercourse corridor cross sections and the survey work for the CB modelling is believed to be undertaken around 8 years ago. Since that time, changes in site topography have occurred through remediation of the site and that a footbridge across the Milton Burn no longer exists. Given that the footbridge no longer exists afflux associated with this structure will be lost and water levels / flooding extent upstream will be lower than that estimated in its presence. DBA are satisfied that their flood inundation mapping represents the most accurate estimate of areas at risk of flooding based on current survey data.

In respect of bridge blockage scenario, DBA consider that the probability of flooding will be negligible given the dimensions of the bridges at Argyll Street and Hamilton Street and canalised reach from Argyll Street.

In respect of surface water drainage, DBA confirm that the FRA states that post-development surface water discharges from the site are limited to the 2-year Greenfield run-off rate. DBA

also confirm that the indicative geocellular storage areas/volumes take cognisance of flood levels in the Milton Burn and impacts that high water levels will have on the outfall hydraulics.

Given the supporting information from DBA revised response from SEPA, it is considered that the flood risk and any loss of the functional flood plain can be addressed by suitable conditions. Objection letters received from Kaya primarily refer to the Carl Bro modelling study that may offer a more thorough assessment of flood risk but these comments have been incorporated in SEPA's response and addressed by a planning condition.

***In terms of Policies LP SERV 2, SERV 3 and SERV 8 of the Argyll and Bute Local Plan (August 2009), the indicative flood risk/surface water drainage strategy is considered to be acceptable at this stage and could be addressed by planning conditions.***

#### **H. Waste Management**

No details have been submitted on waste management but the service yard is of an appropriate size to accommodate and facilitate the pick-up of waste material by refuse collection vehicles, which will have access to the yard at scheduled times.

***In terms of Policy LP SERV 5 of the Argyll and Bute Local Plan (August 2009), the indicative strategy is considered to be acceptable at this stage and could be addressed by planning condition.***

#### **I. Public Water Supply**

It is proposed to connect to the public water supply.

Scottish Water has confirmed that they would have no objections in principle and Loch Eck Water Treatment Works currently has capacity but comment that the scale of the development will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

***In terms of Policy LP SERV 4 of the Argyll and Bute Local Plan (August 2009), the indicative public water supply strategy is considered to be acceptable at this stage and could be addressed by planning condition.***

#### **J. Foul Water Arrangements**

Foul drainage will be discharged into the existing Scottish Water combined sewer network. Scottish Water has confirmed that they would have no objections in principle but Dunoon (Alexandra) Wastewater Treatment Works currently has limited capacity to serve the new demand. Due to the scale of the development, the applicant will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

***In terms of Policy LP SERV 1 of the Argyll and Bute Local Plan (August 2009), the in principle agreement to connect to the public sewer system is considered to be acceptable at this stage and could be addressed by planning condition.***

#### **K. Contamination**

A supporting statement has been submitted by WSP Environmental who were commissioned to remediate the former gas works site and undertake geotechnical investigation for potential future development. WSP confirm that while the risk from potential residual contaminants is

unlikely to be increased as a result of the proposed development, the design and foundations of the proposed building will require consideration during design.

Public Protection acknowledge that the site has undergone extensive work to remediate contaminated land but recommend conditions to ensure that remediation is appropriate to the intended use.

**In terms of Policy LP SERV 7 of the Argyll and Bute Local Plan, it is considered that suspensive planning conditions could address the contaminated land issues raised.**

#### **L. Noise, Dust, Lighting and Operational Hours**

In terms of potential impact on surrounding land uses, Public Protection recommend conditions in respect of minimising noise from the development, minimising the effect of noise from construction, and details of control of lighting.

It is proposed to erect a timber boundary fence around the service yard to screen it from properties on McArthur Street and Argyll Street. Following objections from residents on McArthur Street regarding potential amenity issues and noise from the service yard, the agents confirm that their client would be agreeable to developing an acoustic fence around the service yard to mitigate any noise related issues and would be happy to accept a condition on any planning permission in this respect.

**In terms of Policy LP BAD 1 of the Argyll and Bute Local Plan, it is considered that suspensive planning conditions could address the environmental concerns raised.**

#### **M. Conclusion**

The consideration of this application is more complex than assessing it purely on its individual merits in isolation. Due to the submission of another foodstore application by CWP for a larger store to the rear of Walkers Garden Centre (that has been recommended for refusal but currently 'on-hold' following a Local Hearing and PPSL Committee), this application must also be assessed against that scheme in terms of the sequential test to retailing and comparative retail impact analysis.

In their submission, CWP suggest that the gas works site is too small and awkwardly configured to accommodate a suitable foodstore and petrol filling station to clawback leaked expenditure and that the site has flooding and ground condition problems. CWP therefore dismissed the gas works as unsuitable for their proposed foodstore in terms of the sequential test.

The recommendation of refusal for the CWP proposal is based on the sequential test not being satisfied in terms of the gas works site given that is considered to be sequentially preferable in land use terms, that the location of the CWP foodstore is at the edge of the settlement not easily accessible for pedestrians and that the retail impact analysis suggest an unacceptable level of impact (14.7% on convenience and 3.7% on comparison in the town centre) on the vitality and viability of Dunoon Town Centre. The proposed development anticipates a predicted impact of 8% impact on convenience (excluding Morrisons) and 2.8% impact on comparison (excluding Morrisons) within the town centre.

Whilst the predicted impact on the town centre by the two stores is broadly comparable in terms of impact upon convenience retailing (based on available statistics), the CWP proposal by virtue of its greater scale and its larger proportion of comparison goods has greater potential to impact upon the smaller outlets in the town centre which predominantly rely on the sale of comparison goods. A key factor of the National Grid proposal is that it would satisfy the sequential test by utilising a 'brownfield' site within a preferred 'edge of town centre' zone with greater potential for linked trips to be made to and within the town centre. This and the fact that it is a smaller convenience floorspace than the CWP proposal, is seen to complement the town centre function rather than to compete against it. The lack of objections

from shopkeepers for the current proposal may suggest that they do not feel as threatened by this scale of development and by a lesser comparison goods component, as compared to the strength of objection received for the CWP proposal, as a large out-of-centre store selling a wider range of goods. Officers still have reservations about the amount of achievable clawback from outwith the catchment, but believe that any major impact will be on the existing foodstores, and on the Morrisons store in the town centre in particular, which over-trades and which could sustain additional competition whilst still remaining viable. The argument made for the CWP proposal is that their larger foodstore would be better placed to clawback expenditure from outwith the catchment and also facilitate a housing development. This scheme, however, is not favoured primarily due to its scale, the size of its comparison goods component and its 'out-of-town' location which would be likely to draw trade and shoppers from the town centre, with a reduced likelihood of 'linked trips'.

There are demonstrable advantages inherent in the National Grid proposal in terms of its 'edge of town centre' location, its sequential preferability to the CWP site, and a lesser amount of proposed comparison goods sales than the CWP proposal. The location of the site closer to the town centre gives it a significant advantage in that it provides the opportunity for linked trips with the remainder of the town centre, to the benefit of its vitality and viability. Although it does not include a petrol filling station as the CWP proposal would, if the CWP site were not to be redeveloped for retail purposes then the existing filling station would remain, so this facility would not be lost within the town. Whilst less car parking is achievable at the National Grid site, it nonetheless complies with the Council's standards, has not deterred operator interest, and it would be better placed to deliver Green Travel Plan obligations due to better pedestrian connectivity with the rest of the town centre.

Subject to conditions and the recommended legal agreement, the proposed development satisfies various policy criteria in respect of land use issues, flood risk, transportation matters and contamination. On this basis and with the developer contribution to assist environmental improvements within Dunoon Town Centre, the Department on balance considers that the proposal should be accepted as a 'minor departure' to Local Plan policy LP RET 2 and that there are no reasonable grounds, including the matters raised by third parties, which would warrant the refusal of planning permission.

## **APPENDIX B – RELATIVE TO APPLICATION NUMBER: 11/00689/PPP**

### **REPRESENTATIONS:**

#### **Against**

1. Mr John Bellaby 2 Marina View, Pier Road, Sandbank Dunoon (email dated 13 June 2011);
2. Aileen McDermott (email dated 14 June 2011);
3. Mr Dennis Robson Islay Cottage 26 King Street Dunoon (letter received 13 June 2011);
4. Margaret Blackwood 54 Fairhaven Kirn Dunoon (email dated 13 June 2011);
5. Mrs Norma Birtles Seaford Cottages 74a, Shore Road Innellan (email dated 11 June 2011);
6. E McKay 46 The Glebe Dunoon (email dated 16 June 2011);
7. William, Margaret and Caroline Rankin 32 Sandhaven, Sandbank Dunoon (email dated 11 June 2011);
8. Michael Fulton (email dated 14 June 2011);
9. Dwina Taylor (email dated 14 June 2011);
10. James B Bell on behalf of Hunter's Quay Community Council Lucinda 61 Hunter Street Kirn (letter dated 17 June 2011);
11. Mrs A Anderson Santana Lizvale Terrace 58G Shore Road Innellan PA23 7TP
12. Mrs J G Bryson 67 Alexandra Parade Dunoon PA23 8AQ
13. Mr H R Bennett 1 Shore Road Innellan (email dated 16 June 2011);
14. Richard and Fiona Biggart Rimrock 4 Calderwood Cluniter Road Innellan (email dated 16 June 2011);
15. Mr A Gardner 223 Edward Street Dunoon (email dated 16 June 2011);
16. John and Marion Paterson 67 Sandhaven Sandbank Dunoon (email dated 17 June 2011);
17. John and Shirley Donald Ferndene 4B Broughallan Park Kirn Brae (email dated 14 June 2011);
18. Pat Lynn Duncreggan View Blairmore (email dated 15 June 2011);
19. Catherine Fraser Hunter's Quay (email dated 15 June 2011);
20. Sheila Munro 2 St Andrews Square Dunoon Argyll (email dated 15 June 2011);
21. Neil McLean 55 Alexandra Parade Dunoon (letter dated 12 June 2011);
22. Capt Robin Coles 199 Victoria Road Dunoon Argyll (email dated 15 June 2011);
23. Jenny Gray 3 McLennan Cottage Shore Road Dunoon (email dated 14 June 2011);
24. Mr Robert Trybis Stoneywood Toward Dunoon (email dated 11 June 2011);
25. Sheena McCloy 3 Gerhallow Bullwood Road Dunoon (email dated 11 June 2011);
26. Mrs A M Clark 3 Cherryhill Hunter Street Kirn Dunoon (letter dated 11 June 2011) \* with attached letter from CWP prompting 'Walkers Customer & Supermarket Suporter');

27. Jennifer Godbert 5 Bogleha Green Argyll Street Dunoon (email dated 15 June 2011);
28. John and Anne Mundie 7 Pilot Street Dunoon (email dated 15 June 2011);
29. John Fairman Blartulloch 131 Alexandra Parade Dunoon (letter received 17 June 2011);
30. Mrs Margaret Sinclair Elmwood 63 Hunter Street Kirn Dunoon (letter received 17 June 2011);
31. Mrs A Anderson Santana Lizvale Terrace 58G Shore Road Innellan (letter dated 12 June 2011);
32. Mrs J G Bryson 67 Alexandra Parade Dunoon (letter received 17 June 2011);
33. Ann and Robert McLaren 33 Cowal Place Dunoon (email dated 14 June 2011);
34. Wn W Craig 3 Brae Cottages Sandbank (email dated 14 June 2011);
35. Mr Craig Houston 14 McArthur Street Dunoon (email dated 16 May 2011);
36. Dina McEwan Sydney Cottage 8 McArthur Street Dunoon (letter dated 17 May 2011);
37. James Barr (on behalf of CWP Property Development and Investment) 226 West George Street Glasgow G2 2LN (letters and e-mails dated 25 May, 4, 8 & 25 July, 4, 23 & 31 August and 6 and 12th September 2011)
38. Mrs Karen Bancks Norwood House Hunter Street Kirn (email dated 13 May 2011);
39. David McLucas (email dated 27<sup>th</sup> June 2011);
40. A J Henderson 4 Dhalling Park, Kirn (email dated 30<sup>th</sup> June 2011) ;
41. L O'Hare 7 Hunter Street Kirn (letter dated 23<sup>rd</sup> June 2011);
42. Mr and Mrs Waddell Ormidale, Hunter Street Kirn (letter dated 23<sup>rd</sup> June 2011);
43. A Linden 7 Hunter Street Kirn (letter dated 23<sup>rd</sup> June 2011);
44. M Lanigan Flat 1 106 Argyll Street Dunoon (letter dated 23<sup>rd</sup> June 2011);
45. Catherine and Donald Ross
46. Mrs J Duffy 18 Charles Gardens Argyll Road Kirn (letter received 21<sup>st</sup> June 2011);
47. Alistair Baird Shearwater Marine Services (email dated 21<sup>st</sup> June 2011);
48. W Sinclair Sutherland Drum Cottage Kilfinan Tighnabruaich (email dated 21<sup>st</sup> June 2011);
49. Mr George Macdonald 8 King Street Dunoon (email dated 23<sup>rd</sup> June 2011);
50. Audrey MacDougall (email dated 22<sup>nd</sup> June 2011);
51. Fiona MacDonald 2 Portanstuck Blairmore Dunoon (email dated 22<sup>nd</sup> June 2011);
52. Mary Hackett H W Chartered Accountants 231/233 St Vincent Street Glasgow (email dated 23<sup>rd</sup> June 2011);

53. Kevin Lynch (email dated 4<sup>th</sup> July 2011);
54. Kirsty Fairman 3 Lorimer Terrace Sandbank (email dated 6<sup>th</sup> July 2011);
55. Mrs U Paton (email dated 6<sup>th</sup> July 2011);
56. Alistair Baird 47B Hunter St, Kirn, Dunoon (email dated 19<sup>th</sup> July 2011)
57. H Donaldson 5 Newton Park Innellan
58. S. Lyon? 13 Cromwell Street Dunoon Dunoon
59. Molly Macdonald 20 Park Road Kirn Dunoon
60. Owner/Occupier 38 Cowal Place Dunoon Argyll
61. M T Thomson Kerry Farm Strone
62. Owner/Occupier 91 Argyll Road Kirn Dunoon
63. Hilda Galloway 58 Ardenslate Road Kirn Dunoon
64. M Muir 39 Valrose Terrace Dunoon
65. Alexander C Muir 9 Westfield Strone Dunoon
66. Owner/Occupier 9 Westfield Strone Dunoon
67. S Walsh 7 Shuna Gardens Kirn
68. Owner/Occupier 209 Alexandra Parade Dunoon
69. Colin Miller 99 Alexander Street Dunoon
70. Suzanne Welsh 12 Pilot Street Dunoon
71. Dawn Miller 99 Alexander Street Dunoon
72. K Walsh 7 Shuna Gardens Kirn
73. Ms Catherine Livingstone (email dated 2<sup>nd</sup> September 2011).

## **Support**

1. Miss Katriona Maclean 4 Old Police Station Argyll Road Dunoon (email dated 12 May 2011).