

**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:** 10/00222/PPP

**Planning Hierarchy:** Major

**Applicant:** CWP Property Development and Investment

**Proposal:** Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

**Site Address:** 361 Argyll Street, Dunoon.

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## **SUPPLEMENTARY REPORT 4**

### **1.0 SUMMARY**

This application was considered by the PPSL Committee at a Hearing in the Queen's Hall Dunoon on 8 April 2011. Members resolved to continue consideration of the application. The purpose of this supplementary report is to confirm the receipt of further letters of representation and information.

Most notably it confirms that an application for a supermarket on the National Grid site has been submitted and provides clarification that National Grid do not wish to assemble land with adjoining landowners to provide a larger store. Further information has also been provided by the applicant of this application in response to the recent submissions by National Grid and he has also confirmed details of planning gain available to offset impacts on affordable housing and town centre as verbally discussed at the Hearing.

For the avoidance of doubt, only the 10 Members who were present at the Queens Hall Hearing are able to debate / vote on this item due to substantive evidence and information that has already been provided to them.

To clarify at the outset and to obtain perspective this application is for the construction of a 40,000 sq ft store, the National Grid application proposes to erect a 32,000 sq ft (up to 34,000 sq ft if mezzanine included) store and to aid comparison the existing Morrisons store is roughly 21,000 sq ft.

### **2.0 FURTHER REPRESENTATIONS**

Eleven further letters of objection in a standard format similar to many previously received have been submitted since Supplementary Report 3. These are from:

- Richard McFadden 8 Nelson Street Dunoon Argyll And Bute PA23 7EL
- Sheina McFadden 8 Nelson Street Dunoon Argyll And Bute PA23 7EL
- Dr Pryne Strachurmore Farm Strachur PA27 8DW
- Rhona Galbraith 4 Gordon Street Dunoon PA23 7EJ
- Renee Bischoff 4 Gordon Street Dunoon Argyll And Bute PA23 7EJ
- Liz Dow 7 Letters Way Mid Letters Strachur PA27 8DP
- Dorothy Bryden 141 Victoria Road Dunoon Argyll And Bute
- Decie McConnochie Broom Lodge 19 Wyndham Road Innellan Dunoon PA23 7
- Linda Andrews 20 Ros-Mhor Gardens Sandbank Dunoon PA23 8
- G Thomson 108 Dixon Avenue Kirn Dunoon PA23 8
- Alex Ferguson, K4 Hafton, Hunters Quay, Dunoon

One e-mail of support has been received from Audrey Forrest, 131 Argyll Road, Dunoon.

The further letters of representation raise no new issues.

### **3.0 FURTHER CLARIFICATION REGARDING GAS WORKS SITE & APPLICATION**

A planning application for the construction of a new 32,000 sq ft supermarket was submitted on 6<sup>th</sup> May (ref 11/00689/PPP). At time of writing a full validation check of the application had not been completed but on initial sight it appeared to have sufficient information to be registered. A verbal update on the progress of this application shall be provided to Members at the Committee.

This is obviously a significant material consideration demonstrating National Grid's intent and belief that their site is deliverable and is of an adequate size to accommodate a commercially viable supermarket.

The recent submission of an application supplements a letter dated 21 April 2011 from Montagu Evans on behalf of National Grid Property which confirms that:-

- The former gas works site could easily accommodate a standard retail food store format extending to in the region of 32,000 sq ft gross (not including any additional land outside their ownership)
- Feasibility work presupposes a net convenience retail element of the size proposed by CWP in their application. Assuming a 60/40 gross to net floorspace split, and in the region of a 80/20 convenience/comparison ratio on a store of 32,000 sq ft
- Therefore, CWP's assertions in relation to the retention of leakage apply equally to a foodstore proposal (convenience floorspace) of this scale on the NGP site
- Agents acting on behalf of NGP have been in discussions with supermarket operators who have indicated that their requirement for Dunoon would be more in line with that proposed at the NGP site
- National Grid have recently taken a strategic decision that sites such as the former gas works site can be marketed for development. National Grid are

committed to the development of the former gas works site and has promoted it for development through the process to prepare the Argyll and Bute Local Development Plan.

- National Grid have remediated the site and recent ground investigation confirms that there are no abnormal ground conditions which would prevent or restrict development or require the use of non-standard methods of ground works and construction
- Consultants acting on behalf of National Grid have discussed the principle of access to the site from Hamilton Street with the Council. The Council were content at that time that adequate junction sightlines could be achieved. *(This was confirmed to National Grid's consultants at a meeting on 5<sup>th</sup> Oct 2010, subject to a Traffic Impact Assessment and detailed design.)*
- Extensive work has now been undertaken by consultants concluding that the residual risk of flooding at the site is low and that the presence of the Milton Burn within the vicinity of the site will not significantly preclude or indeed compromise redevelopment of the site.
- The NGP site is sequentially preferable in retail terms to that of the CWP proposal. Indeed the NGP site is acknowledged within the retail statement (revised) submitted in support of the CWP proposals as a sequentially preferable site by virtue of its consideration in section 5.0 of the assessment. On the basis of the above it is entirely competent to consider the NGP site as being a comparable proposal in the context of the application of the sequential approach. Failure to fully afford appropriate weight to the availability of such a sequentially preferable, suitable and deliverable alternative could result in there being grounds for a legal challenge.

An email on 5<sup>th</sup> May also confirmed:-

- A store of 40,000 sqft gross could be accommodated on a wider site, which would include the NG site, together with additional land to the west of Milton Burn. However, there would be issues in the development of a suitable store format, given the nature of its shape and resultant technical issues including traversing the burn. For these reasons, NG do not intend to build a store of 40,000 sqft gross, but rather will apply for planning permission to develop a store of some 34,000 sq ft gross (inclusive of a mezzanine floor which does not require planning consent)

While this proposal may be broadly comparable to the current application by CWP in terms of convenience floorspace, it would deliver substantially less comparison floorspace than of the CWP proposal. Furthermore, it does not include a petrol filling station. Consequently, it may be argued that it would fail to deliver the clawback of retail expenditure spent outwith Dunoon upon which CWP seeks to justify its proposal. Nevertheless, the submission on behalf of NGP does indicate that the potential of the gasworks site to address the retail needs of Dunoon as a sequentially preferable option has not been adequately addressed in the current application.

In response to the further information from National Grid the applicant in a letter dated 4<sup>th</sup> May 2011 has provided:-

*There (National Grid) feasibility work suggests that the car parking numbers for this size of store would be 123 spaces. This is a complete contradiction in terms as the operators would never even contemplate taking a foodstore of this size with that number of car parking spaces. This is why we have always maintained that a store of 20,000 sq ft with 120 car parking spaces would be the maximum size that could be accommodated on this site as the operators*

*will not compromise the car parking ratio due to the direct affect it has on their ability to trade successfully. They must have a clear balance between the store size and the number of spaces required.*

*I am at a loss as to why Montagu Evans continue to maintain that the operators would consider a store of this size in Dunoon with that number of car parking spaces. I can only suggest that it is a continued attempt to try and derail our proposals and given that they have not submitted a planning application this assertion is further compounded.*

*I would like to reiterate that our planning application, which is for 40,000 sq ft with 240 car parking spaces and a petrol filling station reflects the operators requirements and fits within the definition of a "standard retail foodstore format".*

*Montagu Evans make a number of other assertions about the sites availability, access and flood risk but again there is no hard evidence that these issues can be resolved*

Whilst the the above is explicit in terms of the applicant's position and recent appeal decisions also highlight that a degree of cognisance should be afforded to operator requirements, Members must note that this does not prejudice their ability to consider any site below 40,000sq ft as a viable alternative. The viability of any store smaller than the 40,000sq ft threshold will be dependent on market forces including range of goods (comparison and convenience), location and demographics.

What is clear from the recent information is that a store of a size comparable to the current proposal cannot be accommodated on the sequentially preferable National Grid site either in isolation or in partnership with adjacent landowners. Notwithstanding this, the Planning Department still retains the original recommendation for refusal viewing the National Grid as a effective site closer to the town centre, albeit on a smaller scale than the current proposal.

Members should refresh themselves with the original officers report section C(ii) which provides a retail impact assessment for both the proposed store and a representative smaller (27,000 sq ft) store and concludes:-

*.....as a store of 2500 sqm (27,000 sq ft) gross which would equate to about 1600 sqm net, with a 75% convenience and 25% comparison goods split, would more than accommodate the available expenditure. As such, it is considered that the applicants have not met the requirements of the sequential test, in discounting the former gas works site which is located in a sequentially preferable edge of town centre location.*

#### **4.0 FURTHER INFORMATION FROM APPLICANT ON PLANNING GAIN**

Members also continued the determination of the application for clarification on planning gain matters which were verbally offered by the applicant during the hearing. Elements of planning gain were explored in response to impacts on the town centre and in relation to the partial loss of Potential Development Area (PDA 2/5) amounting to around 34 residential units inclusive of 9 affordable units.

As such, the developer has written confirming that they would provide planning gain should Members be minded to approve the application in order to assist and mitigate the loss of the affordable units and address impacts on the vibrancy of town centre. The magnitude of these contributions amount to:-

- £80,000 for town centre environmental improvements; and

- £67,000 (£7,500 per unit) for loss of affordable housing to be invested in Strategic Housing Fund

The affordable housing contribution has been calculated by a residential estate agent on behalf of the developer who considers the plot value for each unit in this location and nature to be £7,500

In the Planning Departments opinion this is a disproportionately low contribution toward realistically delivering affordable housing. In our view, the calculation of a commuted sum, instead of onsite provision, should be based upon the value of serviced land for the provision of housing, acquired on the open market. We need more evidence to demonstrate that it is possible to acquire serviced land for general housebuilding at these levels. It would be normal practise to get the District Valuer to provide these figures, with the applicant expected to pay his fees.

Any contributions for town centre improvements are most likely to be delivered through CHORD which currently proposes £2m worth of environmental improvement in Dunoon. The developer seeks to calculate their contribution taking note of the recently Member approved Tesco Campbeltown store as a benchmark. Given that the Tesco store was 60,000 sq ft with a planning gain of £147,000 to mitigate negative impacts on the town centre the applicant has afforded a pro rata calculation to this smaller 40,000 sq ft store resulting in a proposed payment of £80,000.

In assessing this £80,000 figure against the benchmark of Tesco Campbeltown (£147,000) it is imperative to note some key differentials. Firstly, in Campbeltown the proposal was for the closure of the existing out of town store and replacement within a sequentially preferable location closer to the town centre. Secondly, the application was linked to and enabled the relocation of the Campbeltown Creamery to a new modern facility which had already been approved thereby retaining / facilitating employment and economic activity of a major employer in the area which required a new facility. Whilst the applicant for the current proposal has intimated there is an aspiration and legal agreement on the sale of the site to relocate the current Walkers store within Dunoon there is currently no certainty over the current provision nor any planning control over this matter. This aspect could however be controlled via Section 75 if Members are minded to approve requiring the construction or opening of a new store similar to the one which is being displaced prior to commencement of works at the existing site.

Finally and most importantly, the economic and retail impact upon both of the respective town centers varies significantly. In Campbeltown whilst the store was larger it was assessed to only have an 5.5% impact on convenience goods and no impact on comparison goods in relation to the town centre again taking cognizance of it being a replacement store closer to the town. However in Dunoon, this smaller store in an out of town location shows an anticipated impact on convenience shops within the town centre of 14.7% and 3.7% impact on comparison goods – overall 8%. This overall level of impact is considered to be significant. The retail impact assessment (shown in full at section C of the original report) does not justify a third large foodstore within Dunoon to directly compete with Morrisons and the Co-op that have Main Town Centre and Edge of Centre locations respectively, in addition to the impact on other convenience/comparison outlets in the Town Centre and surrounding areas. Furthermore it must be noted that the assumption that significant leakage can be arrested by proposing a superstore that is more than twice the size of Morrisons does not square with the discrepancies in terms of trips made outwith the peninsula to undertake main food shopping which may be ancillary to trips outside of Cowal for employment or leisure. To this extent it is considered that the impact on Dunoon's

town centre is significantly greater and more challenging to mitigate than the impact identified in Campbeltown and therefore should have a bearing on level of contribution required to offset the deflection from the existing businesses in the town centre and assist with town centre improvements.

In conclusion it is considered that the proposed £67,000 for affordable housing and £80,000 for town centre improvements is insufficient to adequately mitigate the significant adverse impacts predicted to bring it within a threshold that could be viewed as consistent with the Local Plan or even as a minor departure

## 5.0 Conclusion

The additional information and submission of an application has clarified National Grid's position that whilst they can only deliver a store with a maximum gross floor space of around 32,000 sq ft (34,000 sq ft inc mezzanine) but maintain this is of a sufficient size to address leakage in Dunoon without significantly affecting the town centre. It has also confirmed that they do not wish to proceed with land assembly in conjunction with adjacent landowners to increase the physical size of a potential store on their site and they are confident about delivering a store that shall be of interest to operators and have submitted a planning application to this extent although invalid at this stage.

From the developers perspective they have rebutted the claims by National Grid that their site can deliver anything around 30,000 sq ft and maintain their position that the 40,000 sq ft is most commercially viable, operator efficient / attractive and will address the leakage in Dunoon by providing a wider range of goods especially comparison and petrol station whilst unlocking the wider residential site. They have also offered £147,000 in planning gain to mitigate the loss of 9 affordable units and negative impact on the town centre.

Whilst the new information has clarified certain issues as requested by Members the Officers recommendation remains as per the original report as one for refusal and listed 4 reasons for refusal as per section 'R'.

In direct response to the new information the retail impact assessment in the original report assessed a retail unit of approximately 27,000 sq ft as a sequentially preferable alternative and noted that this medium sized store would adequately accommodate leaked expenditure in the area and is in a sequentially preferable location.

Nevertheless, there is still rebuttal and doubt expressed by the applicant that the National Grid site can be progressed due to constraints afforded by flooding, parking, access and configuration to actually to deliver a commercially viable supermarket that adequately addresses retail leakage. **Given an application has now been submitted for the National Grid land it may be prudent to consider this new application and assess the site's effectiveness / deliverability before the current application is determined.** The period of time to assess the new application (11/00689/PPP) is likely to be in the region of 2 months.

Notwithstanding this, the current level of planning gain, as proposed by CWP for the Walkers site, is not considered to be of a level that will meaningfully offset the loss of 9 affordable units or contribute towards town centre improvements of a scale relative to the potential significant impact.

It is therefore recommended that planning permission be refused as per the original report.

If Members are minded to approve giving merit to current level of planning gain offered and disregard of sequentially preferable site then we would recommend the application to be a significant departure from the Local Plan thereby requiring Full Council endorsement.

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**9<sup>th</sup> May 2011**