

**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

Reference No: 11/01422/PP

Planning Hierarchy: Local

Applicant: Waitrose Ltd and Wandering Wild Ltd

Proposal: Erection of Class 1 food store, petrol filling station, associated access, parking landscaping and all associated ancillary development

Site Address: Land south of Hermitage Academy, Cardross Road, Helensburgh

SUPPLEMENTARY REPORT 2

1.0 INTRODUCTION

The purpose of this supplementary report is to advise Members on the implications of the outcome of the Pierhead Master Plan consultation and its influence on the determination of the above planning application, to provide clarification on the size of the Business Allocation, retail impact issues and to provide an update on representations which have been received since the application was reported to committee on 23rd December 2011.

2.0 FURTHER REPRESENTATIONS

Since the time of the 23rd December 2011 PPSL committee a number of additional representations have been received. Thirty of these are in support of the application, 9 oppose the application and there are 4 representations. The objections include a petition from Helensburgh Retailers' Alliance containing 82 signatures.

The majority of the points of representation raise no new issues, however, a representation on behalf of the adjacent landowner highlighted concerns about flooding on the other side of the Red Burn and included photographs of a recent flood event. It was contended that the development of the current proposal may exacerbate this situation. Due to the submission of this letter, the Council's Flood Alleviation Officer requested further information in advance of determination, on the proposed compensatory storage proposed, which would address the removal of a small part of the functional flood plain. Further information was submitted on 10/2/12 and the Flood Alleviation Officer is now satisfied that the proposal would not cause an adverse impact in respect of flooding on the adjacent site.

A further representation has suggested that the response to the Pierhead consultation is not representative of the view of Helensburgh residents and retailers.

In addition, a letter dated 13 February 2012 has been submitted from the Helensburgh Retailers' Alliance suggesting that the Hood Skip Hire site at Rossdhu Place (enclosed within the block West Princes Street, Sinclair Street and West Clyde Street) would represent a suitable town centre site. This site was considered in the applicant's sequential test and discounted as only providing a fraction of the developable area required. It was also the subject of a preliminary pre application enquiry in June 2011. Irrespective of the commercial implications associated with the demolition of an existing operational retail outlet fronting West Clyde Street, there is insufficient information provided to be able to undertake a technical assessment on the potential to deliver such a project. A further omission is that there is no detail submitted on the traffic impact with regards to access at this location and the necessary alterations required on the public road network. The lack of a developer commitment to consider this proposal along with the lack of detail submitted is sufficient reason to confirm that this alternative proposal is not considered to be a viable alternative at this present time, and ought not to be taken into account as being an available alternative site in the context of the sequential test.

A further document from Gareth Hoskins Architects has also been submitted in which he sets out what he believes to be a deliverable, strategic vision as to how Helensburgh could be redeveloped to provide for its different public, housing and retail needs. This envisages development of the Pierhead site for retail and leisure purposes, thereby complementing CHORD funded and other developments within the town centre, and expresses the view that approval of the out of town proposal which is the subject of the current application would be short-sighted and would consign Helensburgh town centre to an inevitable spiral of decline.

Sainsbury's Supermarkets Ltd have written to confirm that they maintain their objection to the proposal, despite the recent Council decision following the public consultation in respect of the Master Plan regarding the future of the Pierhead. Sainsbury's contend that given the Council has not approved any Master Plan which would preclude supermarket use of the site, it ought to remain a sequentially preferable alternative. In the absence of any firm decision on the future of the Pierhead, any decision to disregard it in the context of the sequential test would be premature. They confirm their commitment to the development of a store in the town centre.

A list of the additional representations is contained within Appendix 2 of this report.

3.0 IMPLICATIONS OF PIERHEAD MASTER PLAN OUTCOME

On the 15th December 2011 the Executive authorised the Executive Director for Development and Infrastructure to undertake a public consultation on proposed Draft Master Plans for two key sites in Helensburgh, namely the Pierhead and the site of the former Hermitage Academy. This consultation period ran from 16th December 2011 until 18th January 2012.

Following this period of consultation, a further report was agreed by the Executive on 2nd February 2012. With regard to the Pierhead this substantially reduced the scale and massing of the proposed retail units with the proposal for a larger scale supermarket being deleted from the Master Plan. The largest retail unit now shown on the submitted Master Plan is 1140 sq m, compared with the 1,600 sq m originally envisaged. These amended proposals were approved to go forward with a further period of consultation on this Master Plan.

While this plan has still to go out for a further period of consultation, this represents a material change in circumstances and has implications on the assessment of the current application. Scottish Planning Policy, Structure Plan Policy PROP SET 2 and Local Plan Policy LP RET 1 all advocate the use of a sequential approach when selecting sites for retail uses. This has to examine any potential locations:

1. in town centres;
2. in edge of town centre locations;
3. in other commercial centres identified in the development plan; and
4. finally in out of centre locations that can be made accessible by a choice of transport modes.

However, out of centre locations should only be considered acceptable where they would have no adverse impact on the vitality and viability of the existing town centre.

It is considered that the decision of the Executive on the 2nd February 2012 carries sufficient weight to allow the Pierhead site to be discounted as a suitable site for a retail food store of the size proposed (gfa 3,390 sq.m, nsa 2,322 sq.m) as it gives a degree of certainty regarding the Council's intentions for this site. Whilst as Sainsbury's have pointed out in their most recent representation, there remains no current finalised plan for the Pierhead at the current time, the decision has been taken by the Council to discount its use for a supermarket of a scale which would necessitate its consideration in the context of the Waitrose proposal as a sequentially preferable alternative. As there are no other sequentially preferable sites within the town of a sufficient size to accommodate the development, officers now take the view that the applicant has satisfied the sequential test element of Scottish Planning Policy, Structure Plan Policy PROP SET 2 and Local Plan Policy LP RET 1.

However, even though the sequential test is considered to be satisfied, the acceptability of the site is still dependent on such a proposal not giving rise to adverse effects on the existing town centre sufficient to undermine the vitality and viability of the centre as a whole.

4.0 REMAINING REASONS FOR REFUSAL

As the outcome of the recent Pierhead Masterplan consultation exercise and the Executive's subsequent response to that has led to a material change in circumstances since the application was originally reported to Committee in December, recommended reason for refusal 2 as set out in the report to that meeting is no longer applicable in full. It is therefore appropriate to re-visit the detail of that and the other two reasons for refusal relating to conflict with the Development Plan in terms of the Business and Industry and Open Space Protection allocations.

(i) BUSINESS AND INDUSTRY ALLOCATION

The Industrial and Business land supply allocated in the adopted Local Plan in Helensburgh and Lomond is contained within a single site referenced BI-AL 3/1. This site is noted in the local plan as being 3.5 ha. net. The gross size of this site is 6.8 ha. and as the Open Space Protection Area is not included within this allocation, the application site comprises 1.6 ha. gross. This leaves an area of 5.1 ha gross remaining which would be estimated as providing around 2.6 ha. net. It is important to note the importance of this land in maintaining an effective business and industry land supply in Helensburgh. Indeed, at the time of the Local Plan Inquiry the site was

extended from 3.7ha gross to 6.7ha gross in order to resolve objections from Scottish Enterprise Dunbartonshire and the Chamber of Commerce regarding what they considered to be inadequate business land availability in the Helensburgh and Lomond Area.

The proposal by Waitrose would reduce the gross area by around 1.6 ha. reducing the supply in Helensburgh and Lomond by 23% (and by more than 50% of that which was added at the Local Plan Inquiry). It is considered that the Waitrose proposal would also impact on the deliverability of the remaining portion of the site, impacting on access and other issues. The potential to use the roundabout as an access point to the remainder of the Business Allocation site would be lost, removing the potential for internal connectivity within the wider allocated area. In addition, it would also have the potential to increase development pressures which are contrary to the development plan, such as further retail uses on the remaining portion.

Reason for refusal no. 1 has therefore been amended, but solely for the purposes of correction and clarification. The fundamental conflict between the use proposed and the allocation of the land remains, and accordingly, the proposal conflicts with the provisions of the development plan in this regard.

(ii) OPEN SPACE PROTECTION AREA

When the Tree Preservation Order was first promoted for the land at the west end of the application site, it was accepted that the trees had no great intrinsic value, however, their contribution was that of a valuable screen especially in the context of pressure for development on the adjacent land. Interestingly, the report from 1997 noted that the most recent pressure at that time was from a supermarket. The value of this area has been endorsed latterly by its designation as an Open Space Protection Area in the current local plan. The proposed petrol filling station would take up approximately 34% of this area, thus diminishing its value as a landscape screen and its contribution to amenity in the locality. Development of Open Space Protection Areas, other than in circumstance expressly provided for in the terms of the policy, is contrary to Policy LP REC 2, and in the absence of alternative provision of equal community benefit, the loss of protected open space to development is contrary to the provisions of the development plan.

(iii) RETAIL IMPACT

Since the PPSL committee on 21st December 2011, the applicant's agent has submitted a further letter with supporting information dated 9 February 2012 regarding the retail impact of the proposal on Helensburgh Town Centre. In this, it is contended that the combined trade diversion from the Town Centre would be £3.3 million. It is argued that the Waitrose store alone would have 0% combined impact (convenience and comparison), and even with the largest retail opportunity contained within the new Pierhead Masterplan, the impact of the Waitrose within the Town Centre would be 2%. On this basis it is suggested by the applicants that the proposed development poses a negligible threat to Town Centre vitality and viability. On top of this, it is also suggested that a Waitrose store would attract new trade into Helensburgh which they estimate would result in £4 million of spin-off expenditure to Helensburgh Town Centre. This low impact is partly accounted for due to the forecasted growth in turnover through expenditure growth to 2015.

With regard to trade draw, the agent has provided details from other areas in England and Wales with similar sized Waitrose stores, in order to demonstrate that the shop would attract a significant level of its trade from 20 minutes travel time and beyond. It is also suggested that the proposed store would claw back 62% of trade currently leaked to Dumbarton.

Given the apparent difference in view between the applicants and Council officers in terms of the anticipated impact of the proposal, the Council has commissioned a review of available information by Colliers International.

A review of the applicants' Retail Assessment and other relevant correspondence, including the letter of 9th February 2012 referred to above, has been undertaken by Dr Richard Doidge, a well respected expert in the area of retail impact. His report dated 13 February 2012 contains a number of key findings which are summarised below.

Firstly, it was accepted that the applicants' approach of focussing on convenience expenditure was appropriate in this case, given that the current proposal is for a food store, with only 10% of the turnover being derived from comparison goods. This is significantly different from the applications previously considered by Members for supermarkets in Dunoon and Campbeltown. The proposed Tesco superstore in Campbeltown and the proposals by CWP in Dunoon were for larger stores with a much greater proportion of floorspace given over to comparison goods. In the case of Tesco in Campbeltown, 1,445 sq m or 40% of the sales area was to be used for comparison retailing, and in Dunoon, the CWP proposals involved 780 square metres or 35% of net floor space given over to comparison goods. Ten percent comparison retailing within the proposed net sales area of 2,322 sq m is considered to be largely insignificant.

The applicants' retail assessment is considered by Colliers to be fundamentally flawed and unrealistic because of their selection of the enlarged Zone 2 catchment (with £26m of retained convenience expenditure deriving from Zone 1, i.e. the Helensburgh area, but with £142m deriving from Zone 2, i.e. from Dumbarton, the Vale of Leven and other areas outside Helensburgh. It is considered that the conclusion in the Retail Impact Assessment that 30% of proposed sales will derive from customers resident outside Zone 1 is wildly excessive, and it is noted that extensive consumer market research carried out by Colliers confirms that close proximity is the most important factor influencing consumer choice of the main foods store. It is therefore felt that the applicants' Retail Assessment ought to be regarded as being unreliable, because it underestimates the impact of the proposed food store on Helensburgh Town Centre as a result of having over-ambitious weighting given to anticipated trade draw from elsewhere. This is compounded by the underestimation of the turnover of the Pierhead, and due to retail commitments in the form of further developments in Alexandria and Dumbarton having been ignored. It is also considered that anticipated spin-off expenditure benefits to Helensburgh Town Centre as a result of shoppers visiting Waitrose have been considerably over estimated. Even if shoppers do visit the Waitrose from Dumbarton and beyond, they would be very unlikely to travel even further to the west to visit Helensburgh town centre. The Town Centre is far beyond walking distance and it will not operate as an intervening opportunity for these shoppers.

It is further considered that the applicants' claim of a 20 minute drive time to a Waitrose store is largely irrelevant, as it is the proximity of centres, the location of existing competition and the location and scale of commitments that is most relevant in influencing shopping patterns. It is not considered that the details submitted from Waitrose stores located in Monmouth, Swaffham and Abergavenny provide convincing evidence given that their circumstances are not directly comparable with the case at

hand, as these are free standing towns with little in the way of foodstore competition. . The Dumbarton and the Vale of Leven area is very different in character from these areas, being predominantly urban and well provided with food shopping opportunities already. It is more likely that these West Dunbartonshire residents would travel east to Glasgow, Braehead and Clydebank for their comparison goods and leisure activities, and some may also carry out their convenience shop on the back of these trips. This works at odds with the contention of the applicants that these people will travel in the opposite direction to Waitrose and may then travel further west again to make a linked trip to Helensburgh Town Centre.

Colliers were also asked to review the Council's view that there would be a 28% convenience impact on Helensburgh Town Centre, as cited in the originally recommended reason for refusal. Whilst they have not been commissioned to produce a Retail Impact Assessment of their own, Colliers have used the retail capacity assessment results in their previous Retail Study Update to inform their view of the likely range of potential impact. Based upon this, their conclusion is that that the convenience impact upon the town centre would range from 13.4% at best to 35% at worst, with a midpoint of 24%, which is slightly less than the degree of impact advanced in the original committee report, but of the same general order of magnitude.

Taking account of the above, the impact figure in recommended reason for refusal number 2 has been reduced from 28% to 24% accordingly. Such a scale of impact upon convenience retailing in Helensburgh Town Centre would be wholly unacceptable and would undermine the vitality and viability of the centre as a whole contrary to the thrust of Scottish Planning Policy and to the provisions of the Development Plan.

For ease of reference, the table below summarises a number of key retail statistics in relation to this planning application.

KEY STATISTICS		
Gross Floor Area	3390 square metres	
Net Sales Area	2322 square metres	
Percentage Convenience Goods	90%	
Percentage Comparison Goods	10%	
Distance from Town Centre	1.5 miles	
Local Plan Designation	Business and Industry Allocation / Open Space Protection Area	
Anticipated Clawback of leaked Convenience Expenditure	62% (source: applicants' retail assessment)	80% (Source Councils/Colliers retail review)
New convenience trade (imported expenditure mainly from West Dunbartonshire)	£7.4m (or 30% of the stores turnover) (source Table 4.1 applicants retail assessment)	£2.47m (or 10% of the stores turnover)(Source Councils/Colliers retail review)
Convenience Impact on Helensburgh TC	7% (source: Table 4.2 applicants' retail assessment)	24% (source: Councils retail review based on H&L catchment area – not WDC)
Comparison Impact on Helensburgh TC	0% (source: additional statement from applicants' agent dated 9/2/12)	Negligible

5.0 POTENTIAL FOR PROPOSED PLANNING AGREEMENT / MITIGATION

Where development is envisaged to give rise to conflict with considerations stemming from development plan policy (in this case adverse impacts on the town centre, loss of business/industry land and development within protected open space, it is appropriate to consider whether those identified adverse implications can be offset or be mitigated against by way of what is termed 'planning gain'.

Paragraph 9 of Planning Circular 1/10 states that:

“Planning authorities must consider each planning application on its merits and reach a decision in accordance with the terms of the development plan, unless material considerations indicate otherwise. Planning agreements have a limited but useful role to play in the development management process where they can be used to overcome obstacles to the grant of planning permission. An agreement may mean that development can be permitted or enhanced whilst potentially negative impacts on land use; the environment and infrastructure could be reduced, eliminated or compensated for.”

Any Planning Agreement should meet all of the tests set out in paragraph 11 of Circular 1/2010, namely:

- be necessary to make the proposed development acceptable in planning terms;
- serve a planning purpose and, where it is possible to identify infrastructure;
- provision requirements in advance, should be relevant to development plans;
- relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
- fairly and reasonably relate in scale and kind to the proposed development, and be;
- reasonable in all other respects.

The development involves the loss of business/industry allocated land in conflict with the approved Development Plan and may have implications for the ready developability of the remainder. Any mitigation for this reason for refusal would have to address the substantive loss of business land available for development, and perhaps aim to enhance the attractiveness or the deliverability of the remainder of the business allocation, so that take up of this site could be more easily achieved. We have suggested a variety of mitigation measures to the applicant which may include:-

- Contribution or delivery of right hand turn lane into remainder of B&I allocation to South of development site;
- Contribution or delivery of road layout to South of development site;
- Contribution or delivery of re-grading and drainage improvements to B&I allocation to south of application site
- Contribution towards new business start up or relation grant scheme in H&L

The development also represents an incursion into an area of protected open space, which is also contrary to the provisions of the approved Development Plan. Any mitigation for this reason for refusal would need to address loss of amenity caused by the reduction in the extent of this visual screen. It is not considered that the proposed landscaping scheme for the site would provide adequate mitigation and there would appear to be little scope to provide further on site landscape screening due to the constrained nature of the site and the land take required to accommodate the buildings, servicing and car parking for a supermarket of this size. We have suggested a variety of mitigation measures to the applicant which may include:-

- Increased tree planting in Helensburgh particularly around Colgrain;
- Funding of Helensburgh gateway artwork / signage

Finally, it is necessary to consider whether the anticipated adverse impacts of the development upon the town centre could be reasonably offset or reduced in magnitude to an acceptable extent, sufficient to warrant the application being approved. Members will be familiar with developers having advanced financial contributions towards works or measures in existing centres to take account of the adverse implications of their developments, as was the case recently in Campbeltown and Dunoon. Such an approach can only realistically be countenanced where effects on established centres are palpable but not significant in terms of threatening their overall vitality and viability. In this case, given the identified scale of anticipated impact upon Helensburgh Town Centre it is implausible that the adverse effects of the development upon trading in the town centre could be offset by way of financial contribution towards works or measures intended to improve the overall attractiveness of the town centre.

We have suggested a variety of mitigation measures to the applicant which may include:-

- Financial contribution towards improving Town Centre Car Parking;
- Financial contribution towards improving Town Centre public realm / streetscape;
- Improvements to pedestrian / cycle links to and from Development Site to Town Centre;
- Improvements to bus links to and from Development Site to Town Centre;
- Shop frontage enhancement scheme;
- Beach Cleaning;
- Electrical switchgear for Xmas lighting / events in Colquhoun Square

At the publication of this report, no proposed mitigation has been received in writing from the applicant albeit verbal exchanges indicate they would offer in the region of £190k for delivery of 3 projects namely:-

- Tree planting to value of £10,000
- Christmas light installation of £20,000
- Shopfront improvements for 70 shops at £140,000
- Contribution to youth unemployment scheme £20,000

Given the magnitude of the impact on OSPA, TPO, Business and Industry land supply and town centre, Officers consider this mitigation to be derisory / insufficient to adequately offset effects.

6.0 RECOMMENDATION

It is recommended that Members note the contents of this report and in particular that:

- the additional representations be noted;
- the application be refused for the amended reasons listed in appendix 1 of this report.

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14 February 2012

APPENDIX 1

Reasons for Refusal relative to Planning Application 11/01422/PP

1. The application site lies within part of a larger site allocated for Business and Industrial Uses allocated under reference BI/AL3/1 within Appendix E of the adopted Argyll Bute Local Plan. The allocation is detailed as being suitable for Class 4 and Class 7 uses and also for garages selling or displaying motor vehicles. A Class 1 Retail use is therefore contrary to the Local Plan. The loss of 1.6 hectares (gross) of the 6.5 hectare allocation (gross) would have an adverse impact on the supply of business land in the Helensburgh and Lomond area and it would be difficult to compensate for this loss elsewhere in a manner compliant with the plan. A departure from the plan to permit a Class 1 use cannot be justified especially as this Business allocation represents a 10 year supply and land has only been allocated in the adopted plan since 2009.
2. The application site is located on the edge of the settlement of Helensburgh approximately 1.5 miles from the designated town centre. Policy LP RET 1 of the adopted Local Plan resists development in such locations unless it can be demonstrated that there are no sequentially preferable sites available and that there will be no detrimental impact on the vitality and viability of the existing town centre. It is the view of the Planning Authority that following the decision of the Executive on 2nd February 2012 with regard to the future of Helensburgh Pierhead as expressed in Pierhead Master Plan the sequential test has been satisfied.

In terms of the impact on the existing town centre, the Planning Authority does not accept that the incorporation of a zone 2 catchment area at a level of 30% is realistic. It is not accepted that as many people as suggested will change their shopping habits to make a significantly longer journey to use the proposed store when there is already a degree of supermarket choice close by. The applicants have failed to provide convincing evidence in this respect. If this out of area zone 2 catchment is reduced from 30% to 10% (which represents double that which the Helensburgh Retail Study makes allowance for) then the anticipated convenience impact on Helensburgh Town Centre increases from 7% to somewhere in the order of 24%.

In addition, given that the application site is located some 1.5 miles from the town centre, the opportunity for additional footfall and spin off trips to the town centre are more limited, which further impacts on the vitality and viability of the town centre.

In conclusion, a level of convenience impact of 24% on the existing town centre would have a significantly adverse impact on the vitality and viability of the town centre and would not be consistent with the aim of Scottish Planning Policy, PROP SET 2 of the Argyll and Bute Structure Plan and Policy LP RET 1 of the Argyll and Bute Local Plan.

3. The proposed development would result in the loss of approximately one third of an Open Space Protection Area (OSPA) and Tree Preservation Order (TPO) as defined by the adopted Local Plan. This would be contrary to Policy LP REC 2 of the adopted Local Plan as the ability of this land to act as a landscape buffer would be compromised due to the loss of vegetation and the erection of a visually discordant and illuminated petrol filling station within the site which would impinge upon the existing amenity of the residential area. In addition, no alternative provision of equal community benefit has been proposed as would be necessary in order to be able to satisfy the requirements of the policy in the event of incursion into the protected area. The proposal is also contrary to Structure Plan Policy STRAT FW 2 and Local Plan

Policy LP ENV 7 as it would undermine and reduce the value of the group of trees on the land. This would adversely affect the area's ability to act as an attractive and effective visual buffer between the application site and residential area to the west.

APPENDIX 2: Additional Representations