

FALKIRK COUNCIL

**Subject: CENTRAL RETAIL PARK, FALKIRK
REQUEST BY HAMMERSON UK PROPERTIES PLC TO
AMEND SECTION 75 AGREEMENT**
Meeting: PLANNING COMMITTEE
Date: 23 SEPTEMBER 2009
Author: DIRECTOR OF DEVELOPMENT SERVICES

1. INTRODUCTION

- 1.1 Hammerson UK Properties Plc, as owners of Central Retail Park, are seeking to let Unit 4 within Phase 2 of the Retail Park to Mothercare. Central Retail Park is covered by a Section 75 Agreement which, *inter alia*, defines a list of 'prohibited uses', these being goods which cannot be sold from Phase 2 of the Retail Park. Whilst the majority of the goods to be sold in the proposed Mothercare store fall outwith this list of prohibited uses, a small percentage fall within it, and therefore the occupation of Unit 4 by Mothercare would be, strictly speaking, contrary to the terms of the Agreement.
- 1.2 Hammerson have requested that the Council agree to amend the Section 75 Agreement in respect of Unit 4 in order to allow Mothercare to locate there.

2. SECTION 75 AGREEMENT

- 2.1 The current version of Section 75 Agreement restricting the range of goods which can be sold in Central Retail Park was signed in 2001. This was a revision of a previous Agreement which dates back to the construction of the Retail Park. The Agreement sets out a range of 'prohibited uses', which cannot be sold from Phase 2 of the Retail Park, as follows:
- (a) clothes (other than children's clothes and sports clothing)
 - (b) jewellery
 - (c) shoes and footwear (other than childrens footwear and sports footwear)
 - (d) books, records, tapes and stationery
 - (e) fashion goods and accessories
 - (f) cosmetics
- 2.2 The purpose of restricting the range of goods is to ensure that the Retail Park remains complementary to the rest of Falkirk Town Centre, and that the role of the 'traditional' Town Centre is protected. Although the Retail Park is now recognised as being part of the Town Centre within the Finalised Falkirk Council Local Plan, its separate and distinctive function continues to be acknowledged within the Local Plan, and the policies of the Local Plan cross-refer to the Section 75 Agreement.

3. MOTHERCARE PROPOSAL

- 3.1 Hammerson have indicated that they wish to let Unit 4 within Phase 2 to Mothercare.
- 3.2 The terms of the Section 75 Agreement are generally favourable to the principle of a Mothercare store within Phase 2 of the Retail Park, in so far as children's clothes and children's footwear are already specifically permitted, whilst other childcare type goods such as prams, pushchairs, car seats, cots, and toys are not included in the list of prohibited uses. However, Mothercare have advised Hammerson that approximately 6.5% of the gross floor area would be taken by the sale of maternity clothing and books/audio which fall within the prohibited categories (a) and (d) referred to above.
- 3.3 It is not considered that this very minor proportion of prohibited goods would cause any concern in relation the overall purpose of the Section 75 Agreement, or any adverse effects on the Town Centre. Accordingly, it is considered that the Council should agree to Hammerson's request to amend the Section 75 Agreement so that the proposed Mothercare store does not contravene it.
- 3.4 A letter from Mothercare supporting the Proposed Section 75 variation is appended to this report.

4. PROPOSED AMENDMENT

- 4.1 The exact wording of the amendment would be a matter for detailed drafting between Council officers, Hammerson and any other relevant signatories. However, it is recommended that its broad terms should be that up to 10% of the gross floor area of Unit 4 of Phase 2 may be occupied by goods within the prohibited categories.

5. RECOMMENDATION

- 5.1 **That Committee agrees to the amendment of the Section 75 Agreement covering Central Retail Park to allow up to 10% of the gross floor area of Unit 4 to be occupied by goods falling within the categories of 'prohibited uses' as defined in the Agreement.**

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Director of Development Services

Date: 15 September 2009

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504739 and ask for Alistair Shaw (.Development Plan Co-ordinator)

LIST OF BACKGROUND PAPERS

1. Application reference F/98/0760 Erection of 90,000 sq ft non-food retail, 45,000 sq ft Multiplex Cinema, 15,000 sq ft leisure unit, 9,000 sq ft class 3 use, drive thru restaurant, car parking and associated landscaping.
2. Falkirk Local Plan
3. Falkirk Council Local Plan Finalised Draft.

Appendix 1

Letter from Mothercare in support of the proposed amendment to existing legal agreement.



11 September 2009

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Our Ref: 087FC110909

Dear Alistair,

Mothercare
Unit 4, Central Retail Park, Grahams Road, Falkirk FK1 1LD

I understand that you will be reporting to Committee on 23rd September and trust that the information below will assist your Members consideration of the matter.

Mothercare is not presently represented in Falkirk. Unit 4 at Central Retail Park presents a unique opportunity for us to locate in the town allowing us to open a 'Parenting Centre' store that provides our full product range to customers. Most importantly, this store will allow us to provide additional services such as car seat fitting and mother and baby changing facilities as well as extensive homeware and pushchair ranges.

The Parenting Centre format now features across over 40% of Mothercare stores throughout the UK and this is anticipated to grow to 50-60% in the next 2 years as part of our UK business strategy.

Our proposal to locate at Unit 4 represents a £1 million investment by Mothercare in Falkirk and will also create approximately 30 jobs.

As the majority of Mothercare's goods ranges are already allowed to be sold from this location under the terms of the S75 Agreement, including the sale of children's clothes and children's footwear, this shows that the intentions of the Agreement are to allow a Mothercare type operation. Unfortunately a small proportion of our goods ranges do not fall exactly within the terms of the Agreement. As you are aware this relates to maternity clothing and books/audio items which will occupy only 6.5% of the gross ground floor area. They clearly occupy a minor proportion of the floorspace and relates to a limited range of goods that would be expected to be found in a Mothercare store.

I hope that the committee will support the minor variation to the permitted goods ranges that is required at the subject premises to allow us to make our desired investment in Falkirk.

Should you wish to discuss this further, please do not hesitate to contact me.

Yours sincerely

Grahame Smith
Director of Property

Direct Dial: 01923 206499

