

FALKIRK COUNCIL

**Subject: CENTRAL RETAIL PARK, FALKIRK – PHASE 2, UNIT 3
REQUEST BY HAMMERSON UK PROPERTIES PLC TO AMEND
SECTION 75 AGREEMENT (PLANNING APPLICATION F/98/0760)**
Meeting: PLANNING COMMITTEE
Date: 25 AUGUST 2010
Author: DIRECTOR OF DEVELOPMENT SERVICES

1. INTRODUCTION

- 1.1 Hammerson UK Properties Plc, as owners of Central Retail Park, are seeking to let Unit 3 within Phase 2 of the retail park (see attached location plan) to Staples, a multinational office products company. The unit is currently vacant. Central Retail Park is covered by a Section 75 Agreement which, amongst other things, 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 Staples store fall outwith this list of prohibited uses (office equipment and furniture), a proportion of their turnover comprises stationery which is prohibited and means that the store would contravene the terms of the Section 75 Agreement.
- 1.2 Hammerson have requested that the Council agrees to amend the Section 75 Agreement in respect of Unit 3 in order to allow Staples to locate there.

2. SECTION 75 AGREEMENT

- 2.1 The current version of the 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 children’s footwear and sports footwear)
 - (d) books, records, tapes and stationery
 - (e) fashion goods and accessories
 - (f) cosmetics
- 2.2 The 2001 revision was a rationalisation and relaxation of the Section 75 Agreement, whereby all goods restrictions were removed from Phase 1. It was indicated at the time that this relaxation could in the future be extended to Phase 2, subject to monitoring of the impact of the Phase 1 relaxation, as part of a phased approach.

- 2.3 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.
- 2.4 A minor variation to the Section 75 Agreement to allow a Mothercare store was agreed by Committee on 23 September 2009. The variation was to allow up to 10% of prohibited goods to be sold from Unit 4 in Phase 2.
- 2.5 It should also be noted that Hammerson submitted a request in May 2009 to have the goods restriction on Phase 2 of the retail park removed totally. However, they have withdrawn this request in favour of the current Staples proposal.

3. PLANNING POLICY

- 3.1 The Falkirk Council Structure Plan 2007 states that 'since [Central Retail Park] is now recognised as forming part of the town centre, the Council has accepted that the retail park can perform a wider role than its original function as a household shopping centre. Nonetheless, the range of goods which can be sold will continue to be controlled whilst this is necessary to protect the role of the remainder of the town centre'.
- 3.2 The adopted Falkirk Local Plan 2000 states, under Policy FAL 7.5, that 'the Council will reserve Central Retail Park for non-food retail warehousing in accordance with the Section 75 Agreement governing its future use'.
- 3.3 The Falkirk Council Local Plan (Finalised Draft – Deposit Version) 2007, which is likely to be adopted by the end of 2010, states in Policy FAL4 that 'proposals for non-food retail, leisure and food and drink will be supported provided they comply with the Section 75 Agreement, including restrictions on the type of goods that may be sold within Phase 2'. Central Retail Park is now entirely within the Falkirk town centre boundary. The policy commentary notes that Central Retail Park 'comprises the area reserved for non-food and leisure uses requiring 'warehouse' or large format type premises. Non-food retailing in Phase 2 will be additionally restricted mainly to bulky household goods, a policy which will be maintained in the short term, but subject to periodic review'.

4. STAPLES PROPOSAL

- 4.1 Burnett Planning & Development have submitted a statement in support of the amendment to the Section 75 Agreement, on behalf of Hammerson. In summary, it states:
- The majority of Staples' turnover will be goods which are already permitted in Phase 2 of the retail park including office furniture and office equipment (mainly business machines, including computers). Stationery comprises only 21% of turnover, much of this being sold to small companies rather than domestic consumers. Ancillary uses include a print shop, technology centre and service centre for office equipment
 - Office furniture and equipment are bulky goods, and the majority of offices supplies/stationery is sold in bulk packages rather than individual items. Staples' business model requires a large floorspace in which to display goods. Consequently, Staples cannot trade out of a traditional 'high street' store, but require the kind of warehouse format found at Central Retail Park.

- There are no similar office supplies stores in Falkirk, the nearest Staples being at Hermiston Gate in Edinburgh. The proposal to locate in Falkirk will assist the town centre's competitiveness and reduce trade loss to Edinburgh and Glasgow. It will improve availability of office supplies and associated services to local businesses.
- The proposal will create 30 full or part time jobs, and bring a vacant unit in the retail park back into use.

5. REPRESENTATIONS

- 5.1 Key town centre interests have been consulted on the proposal. Four representations have been received.
- 5.2 Falkirk BID (Business Improvement District) have expressed concerns about the impact of the proposed relaxation on the town centre. They highlight the presence of other office supply companies (DMS Office Supplies in Falkirk and AG Office Supplies in Grangemouth) who sell to small companies rather than domestic customers, and High Street outlets (Rymans, WH Smith and The Works) who sell stationery and office supply items. These would be impacted on by the proposal. Falkirk BID also state that the variation would set a precedent, with the possibility that further requests for relaxations could be granted on a unit by unit basis, to the further detriment of the town centre. They consider that the proposal is contrary to the current and emerging Development Plan.
- 5.3 The Mall Corporation, owners of the Mall shopping centre, highlight the fragile economic position of the town centre and are of the view that this could be exacerbated by the relaxation. They recognise that Central Retail Park is in the defined town centre but consider that the Development Plan still emphasises the need to protect the core retail area of the town centre.
- 5.4 Propinvest Callendar Limited Partnership, owners of Callendar Square, accept the benefits which a Staples store will bring to Falkirk, and that the vitality and viability of existing town centre retail locations is not generally dependent on the sale of stationery. Nonetheless, they express concern about the issue of precedent and the effects of possible further relaxations. Accordingly, they seek the inclusion of safeguards in any amendment which tie the relaxation very specifically to a Staples type operation, and to preclude any further relaxations.
- 5.5 A further representation from AG Office Supplies Ltd expresses concern about the impact of a large new Staples store on local independent office suppliers outwith Falkirk town centre.

6. ASSESSMENT

- 6.1 The key issues to be considered are:
- Planning policy as expressed in the existing and emerging Development Plan;
 - The impact of the proposal on the vitality and viability of Falkirk town centre;
 - The issue of precedent and whether the proposed amendment could lead to the further relaxations, to the detriment of the town centre; and
 - The economic benefits of the proposal.

- 6.2 As regards policies on Central Retail Park in the Structure and Local Plans, these refer back to the Section 75 Agreement. There is an acceptance that the park is now part of the town centre, whilst acknowledging the need, at least in the short-term, for some control over the range of goods sold in order to cushion impacts on the traditional part of the town centre. There is an assumption that these controls will continue to be reviewed and revised, as appropriate. Planning policies therefore do not present an impediment to changes to the Section 75 Agreement, provided the Council is satisfied that any changes will not have an adverse impact on the town centre.
- 6.3 In terms of impact on the town centre, the concerns of Falkirk BID and the Mall Corporation are noted, and are understandable given current economic pressures on the core area of the town centre. There are two office supplies stores in the town centre (Rymans in the High Street and DMS Office Supplies (formerly GS Mutch & Son) in Melville Street), and it is likely that they will suffer some impact. Two other High Street stores (WH Smith and The Works) offer office stationery only as a part of their product range. However, in general terms, office stationery is not considered to be a key category of goods sold within the traditional part of the town centre. To some extent, the town centre stores are likely to serve a different type of customer and purchase than Staples.
- 6.4 Issues of impact on local office supplies companies located outwith Falkirk town centre are not considered relevant as these are beyond the scope and terms of the Section 75 Agreement and its Development Plan context, which relate to Falkirk town centre only.
- 6.5 On the issue of precedent, the Council is not bound to accept any future requests for relaxations and is able to treat each on their merits. Whilst incremental, unit by unit amendments to the Section 75 Agreement will tend to erode the clarity of the document, they can be regarded as a pragmatic way of gradually introducing appropriate additional flexibility in a controlled manner.
- 6.6 A new Staples store would bring new investment into the retail park at a time of recession, with consequent employment benefits. The retail park is recognised as being part of the wider town centre, and the proposal would add to its retail mix on offer, and may indeed prevent trade loss to Glasgow and Edinburgh..
- 6.7 In conclusion, the risks posed by the proposal to the vitality and viability of the traditional part of the town centre are likely to be limited, and are considered to be outweighed by the employment benefits, and the enhancement of retail choice in the wider town centre. The majority of the goods to be sold are not in prohibited categories, and comprise bulky goods such as business machines and furniture, whilst the majority of the stationery element is sold in bulk packages. A large format, warehouse type store, such as is provided at Central Retail Park, would seem appropriate.

7. PROPOSED AMENDMENT

- 7.1 The exact wording of the amendment would be a matter for detailed drafting by Council officers, Hammerson and any other relevant signatories. However, it is recommended that its broad terms should be that stationery may be sold from Unit 3, and only in association with other office related goods and equipment.

8. RECOMMENDATION

- 8.1 That Committee agrees to the amendment of the Section 75 Agreement covering Central Retail Park to allow stationery to be sold from Unit 3 of Phase 2, provided it is in association with other office-related goods and equipment.**

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Director of Development Services

Date: 18 August 2010

LIST OF BACKGROUND PAPERS

1. Application reference F/98/0760 Erection of 90,000 sq ft non-food retail, 45,000 sq ft leisure unit, 9,000 sq ft class 3 use, drive thru restaurant, car parking and associated landscaping.
2. Section 75 Agreement in relation to Central Retail Park, Falkirk.
3. Falkirk Council Structure Plan 2007.
4. Falkirk Local Plan 2000.
5. Falkirk Council Local Plan (Finalised Draft – Deposit Version) 2007.
6. Letter from Burnett Planning & Development on behalf of Hammerson UK Plc, dated 13 April 2010.
7. Letters of representation from Propinvest Callendar Limited Partnership. Falkirk BID, the Mall Corporation and AG Office Supplies.

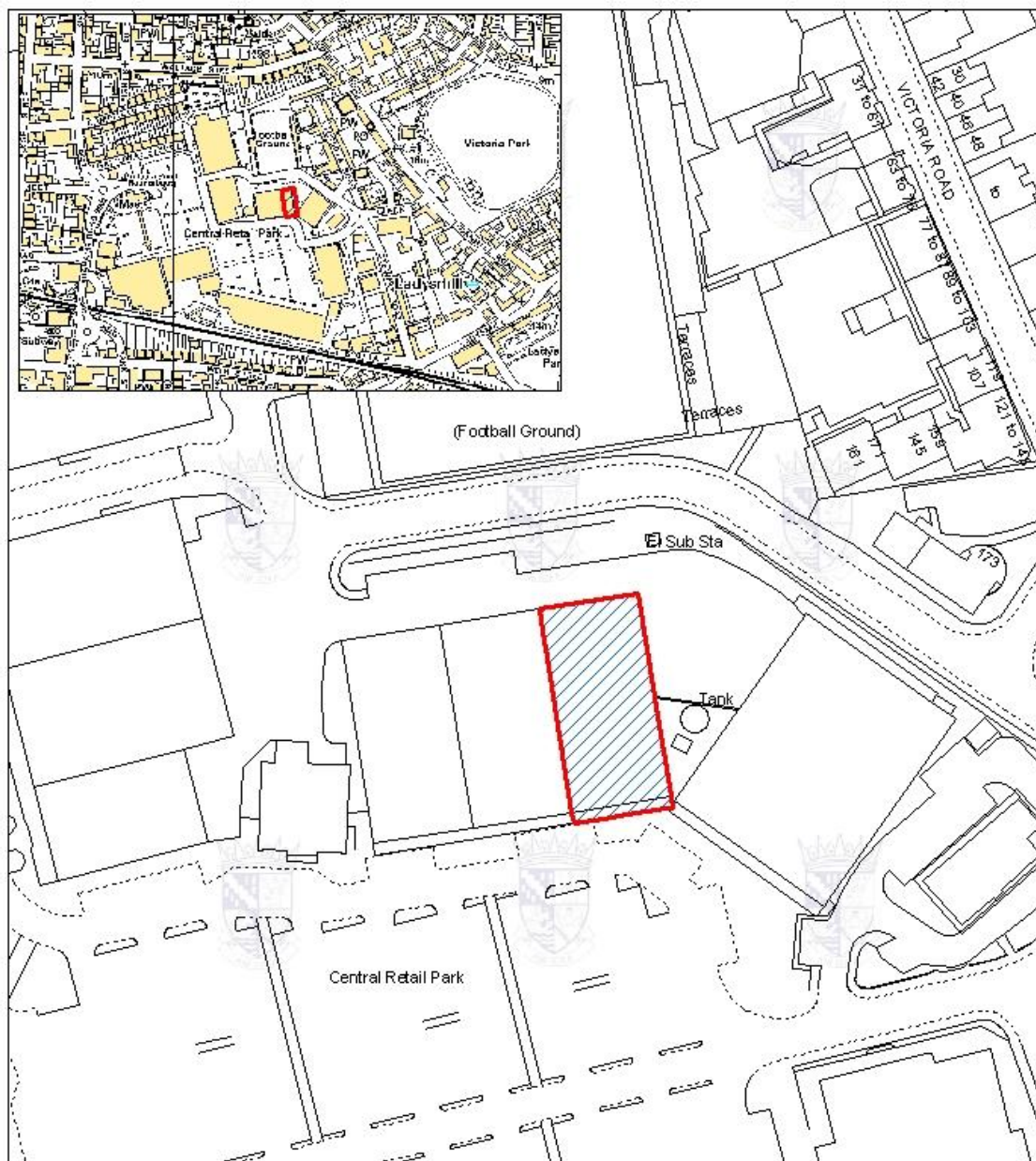
Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 504739 and ask for Alistair Shaw (Development Plan Co-ordinator).

Planning Committee

F/98/0760

Planning Application Location Plan

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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