

Report

Report to:	Planning Committee
Date of Meeting:	1 May 2018
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	EK/18/0041
Planning proposal:	Section 42 application to vary Condition 2(a) of EK/14/0348 to extend the time period within which application(s) for approval of further matters must be made

1 Summary application information

Application type:	Further application
Applicant:	Orion Iv European 16 S.A.R.L.
Location:	Eastern end of Olympia and Princes Malls and whole of Olympia Arcade East Kilbride Shopping Centre East Kilbride

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant further application (subject to conditions - based on conditions attached)

2.2 Other actions/notes

- (1) The Planning Committee has delegated powers to determine this application.

3 Other information

- ♦ Applicant's Agent: CBRE
- ♦ Council Area/Ward: 08 East Kilbride Central North
- ♦ Policy Reference(s): **Scottish Planning Policy**

**Clydeplan Strategic Development Plan
(approved 2017)**

**South Lanarkshire Local Development Plan
(adopted 2015)**

Policy 1 – Spatial Strategy

Policy 4 – Development Management and Placemaking

Policy 8 – Strategic and Town Centres

Policy 10 – New Retail/Commercial Proposals

**Development Management Placemaking and
Design Supplementary Guidance 2015**

Town Centres and Retailing Supplementary Guidance 2015

◆ Representation(s):

▶	0	Objection Letters
▶	0	Support Letters
▶	1	Comment Letter

◆ Consultation(s):

Roads & Transportation Services (Development Management)

Transport Scotland

Environmental Services

Planning Application Report

1 Application Site

- 1.1 The proposed development site is located at the eastern end of East Kilbride Town Centre and covers an area of approximately 3.47 hectares. The site comprises a number of non food retail units, most of which lie vacant, a 3413 square metres food store operated by Sainsbury's and various entertainment and leisure outlets. The site was also previously occupied by a range of retail outlets including H&M and Top Shop. However, as part of wider improvement works within East Kilbride Town Centre, most of these outlets have relocated to other areas of the shopping centre. The Sainsbury's supermarket located within the site remains operational at this time.
- 1.2 The site also includes car parking on several deck levels with surface level parking at the east of the site. Additionally the site incorporates a taxi rank and pick up area at Olympia Way. Pedestrian access to this area of the shopping centre can be taken via an external ramped access. Vehicular access to the site is taken via two access roads from Churchill Way and Rothesay Street.
- 1.3 The site is adjoined by the existing properties within the Olympia Mall to the west, known as The Hub, Cornwall Way and the Town Centre Bus Station to the north, Churchill Way to the east and Rothesay Street to the south.

2 Proposal(s)

- 2.1 Planning Permission in Principle was granted in December 2011 for a major redevelopment, refurbishment and extension of the existing footprint of the Olympia Mall and Olympia Way within the town centre and its adjoining car parks (Planning Ref: EK/11/0250). The proposal consisted of:
 - An extension to the existing Sainsburys foodstore
 - Nine reconfigured units, reduced from 29 units, six retail units, two leisure units and one public house
 - Enhanced pedestrian access from the bus station
 - Reconfigured/improved car parking on two levels
 - Improved vehicular access
 - Improved linkages to cinemas and community facilities
- 2.2 Planning permission was subsequently obtained in 2015 to alter Condition 3 (a) of the original consent under the terms of Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) to extend the duration of the consent for a further three year period (Planning Ref: EK/14/0348). Due to the expiry of the three year period the applicants now seek further permission under the terms of Section 42 of the Act to alter Condition 2 (a) of the 2015 consent to extend the duration of the consent for a further three year period. It should be noted that, in terms of the requirements of Section 42 of the Act, the application was submitted for consideration prior to the expiry of the original three year period to which the previous consent related.
- 2.3 The applicants have submitted a supporting statement with the application to justify the requirement for the consent to be extended for a further three year period. They have advised that, due to the recent focus on the formation of the adjacent leisure development known as 'The Hub', it has not been possible to take forward the

development of the application site within the timescales allotted as part of the previous consent.

3. Background

3.1 Relevant Government Advice/Policy

- 3.1.1 The Scottish Planning Policy (SPP) sets out a “town centre first” principle which promotes a broad perspective to decision-making that considers the vitality, viability and vibrancy of town centres. It states that planning for town centres should be based on a sequential approach, enabling a wide range of uses which generate significant footfall, including retail and commercial leisure, residential, offices, civic, community and cultural facilities.

3.2 Strategic Development Plan

- 3.2.1 Clydeplan, the relevant Strategic Development Plan, identifies East Kilbride Town Centre within its Network of Strategic Centres as set out in Schedule 2 of the plan. The plan requires the network of strategic centres to be protected and enhanced, with investment required to support their long term roles and functions particularly in terms of the quality and diversity of offer, public realm, environment, continuing sustainable accessibility and the promotion of footfall generating uses.

3.3 Local Plan Status

- 3.3.1 The site is located within East Kilbride Town Centre which is identified in the adopted South Lanarkshire Local Development Plan (adopted 2015) as a town centre location. Policies 1, 4, 8 and 10 of the Local Development Plan are all of relevance to the site. Additionally, the associated supplementary guidance relating to town centres and retailing as well as development management, placemaking and design are also of relevance. The proposal has been assessed in terms of the requirements of the adopted Local Development Plan within Section 6 below.

3.4 Planning History

- 3.4.1 Planning Permission in Principle (PPP) was sought in August 2011 for the reconfiguration and refurbishment of the application site to form an extended food superstore, repositioned retail units, car parking and associated infrastructure (Planning Ref: EK/11/0250). Permission in Principle was granted for these works in December 2011 for a three year period.
- 3.4.2 Planning permission was subsequently obtained in 2015 to alter Condition 3 (a) of the original consent under the terms of Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). This allowed the duration of the consent to be extended for a further three year period (Planning Ref: EK/14/0348).

4. Consultation(s)

- 4.1 **Roads and Transportation Services (Traffic and Transportation Section)** – have noted that the conditions specified in their consultation response for the original PPP application remain applicable to this Section 42 application.
Response: Noted. The relevant conditions of the original consent would also be attached to any consent granted in this instance.

- 4.2 **Environmental Services** – offered no objections to the proposal subject to the imposition of conditions relating to the management of noise, waste and air quality to any consent issued.
Response: Noted. The requested conditions would be attached to any consent issued.

- 4.3 **Transport Scotland** – offered no objections to the proposed development.
Response: Noted.

5. Representation(s)

- 5.1 Statutory neighbour notification procedures were undertaken and the application was advertised in the East Kilbride News for neighbour notification purposes. One letter of comment was received in relation to the application. The points raised have been summarised as follows:

- a) **The writer seeks to ensure the protection of flora, fauna and species throughout the development process.**

Response: Given the nature of the proposed development and the development location within and adjacent to the existing shopping centre it is considered unlikely that there would be any such impacts in this case. However, the matter can be dealt with as part of any subsequent application for the site relating to the approval of matters specified in the conditions of this consent, as appropriate.

- 5.2 The above letter has been copied and is available for inspection in the usual manner and on the Planning Portal.

6. Assessment and Conclusions

- 6.1 The application relates to the variation of Condition 2 (a) of Planning Permission Ref: EK/14/0348 which was granted in January 2015 relating to a major redevelopment, refurbishment and extension of the existing footprint of the Olympia Mall and Olympia Way within the town centre and its adjoining car parks. In this context Section 42 of the Town and Country Planning (Scotland) Act, as amended, states that the Planning Authority shall consider only the matter of conditions to be attached to any consent issued rather than undertake a full reconsideration of the principle of the previously consented development.
- 6.2 The applicant wishes to vary the wording of Condition 2 (a) of the original consent in order to extend the time period for the submission of further applications for approval of matters specified in conditions for a three year period. The applicants have stated that, while they remain positive in terms of their intention to redevelop this area of the shopping centre, due to the recent focus on the development of 'The Hub', an adjacent leisure and recreation facility, they have not been in a position to submit the further applications required by the specified date of 28 January 2018.
- 6.3 In terms of national and strategic policy as set out in the Scottish Planning Policy and in Clydeplan, the relevant Strategic Development Plan, it is noted that both documents identify the importance of town centres as a key element of the economic and social fabric of Scotland. In particular, Clydeplan identifies East Kilbride Town Centre as part of its Network of Strategic Centres and states that there is a need for the centre to be protected and enhanced, with investment required to support its long term role and function as a retail and recreational centre. It is considered that the proposed development would assist with the improvement of the retail offer within East Kilbride Town Centre and would also improve the external fabric of the Centre. The proposed application is, therefore, considered to be entirely consistent with the requirements of both of these documents.
- 6.4 Within the context of the South Lanarkshire Local Development Plan and its associated supplementary guidance, it is not considered that the application to amend the condition would cause any significant issues in terms of Council planning policy

and would have a significant positive effect on the amenity of the local area. It is considered that it would be unreasonable to prevent the extension to the time period proposed. It is, therefore, considered appropriate to allow an extension to the existing permission in accordance with the terms of the Town and Country Planning (Scotland) Act 1997 (as amended). This would allow the applicants until May 2021 to submit the required details to address the matters specified in the conditions of the consent. I am therefore satisfied, in terms of the requirements of the adopted plan, that the application can be supported subject to the amendment of Condition 2 (a) of the previous consent for the development.

- 6.5 In summary, the issuing of Planning consent EK/11/0250 established the principle of the development of this site and it is not necessary to revisit this principle when assessing this current proposal. The Planning Service is supportive of this application on the basis that it would ultimately provide a high quality retail based development thereby regenerating the area and providing significant economic benefit and employment opportunities. It is considered that the proposal has no adverse impact on local amenity and complies with the relevant policies of the South Lanarkshire Local Development Plan (adopted 2015) and its associated supplementary guidance as well as with all relevant regional and national planning policy documents. I would therefore recommend that this further application, to modify Condition 2 (a) to allow an extension of time to submit applications for the approval of matters specified in the attached conditions, is granted in this instance.

7. Reasons for Decision

- 7.1 The proposal is fully compliant with all relevant national and regional planning policy as well as with the requirements of the South Lanarkshire Local Development Plan (adopted 2015) and its associated supplementary guidance.

Michael McGlynn
Executive Director (Community and Enterprise Resources)

4 April 2018

Previous References

- ◆ EK/11/0250
- ◆ EK/14/0348

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Development management, placemaking and design supplementary guidance (2015)
- ▶ Town centres and retailing supplementary guidance (2015)
- ▶ Neighbour notification letter dated 31/01/2018
- ▶ Consultations
 - Roads Development Management Team 08.02.2018
 - Transport Scotland 09.02.2018
 - Environmental Services E-consult 08.02.2018
- ▶ Representations Dated:

Mr Joe Allan, 94 Franklin Place, Westwood, East Kilbride,
G75 8LS

07.03.2018

Contact for further information

If you would like to inspect the background papers or want further information, please contact:-

Declan King, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: Ext 5049, (Tel: 01698 455049)

Email: declan.king@southlanarkshire.gov.uk

Detailed planning application

Paper apart – Application number: EK/18/0041

Conditions and reasons

1. Prior to the commencement of development on site, a further application(s) for the approval of the matters specified in this condition must be submitted to and approved by the Council as Planning Authority. These matters are as follows:
 - (a) the layout of the site, including all roads, footways, parking areas and open spaces;
 - (b) the siting, design and external appearance of all building(s) and any other structures, including plans and elevations showing their dimensions and type and colour of external materials;
 - (c) detailed cross-sections of existing and proposed ground levels, details of underbuilding and finished floor levels in relation to a fixed datum, preferably ordnance datum.
 - (d) the means of access to the site;
 - (e) the design and location of all boundary treatments including walls and fences;
 - (f) the landscaping proposals for the site, including details of existing trees and other planting to be retained together with proposals for new planting specifying number, size and species of all trees and shrubs;
 - (g) the means of drainage and sewage disposal.
 - (h) details of the phasing of development (covering all relevant aspects of development detailed in (a) above);

Reason: To comply with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.

2. Details of the phasing of the development shall be submitted to the Council for approval, and no work shall begin until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme.

Reason: In order to retain effective planning control.

3. That the further application required under the terms of Condition 1 above, shall be accompanied by a Design Statement which shall set out the design principles, justify the design solution and show how the proposal responds to the wider context of the area as well as the characteristics of the site.

Reason: To provide an explanation of the design concept and to enable a greater understanding of the proposal.

4. That within 12 months, or as otherwise agreed, of the consent being issued the developer shall submit details of the phasing of the development, including landscaping proposals, shall be submitted to the Council for approval, and no work shall begin until the phasing scheme has been approved in writing unless otherwise agreed by the Council as Planning authority. Following approval, the development shall be implemented in accordance with any approved scheme.

That any submitted phasing plan shall detail the development of the site including proposals for the implementation of infrastructure works (including off-site road

works), road access and public transport provision. The plan requires to take cognisance of the rate of build-out of the development and its proposed phasing and should identify what improvements require to be implemented before any phase of the development is occupied.

Reason: In order to retain effective planning control.

5. That the further application(s) required by Condition 1 above shall include the detailed design of all roads and transportation infrastructure improvements identified in the Transport Assessment, or in subsequent discussions with Roads and Transportation Services, and required by the Council as Roads Authority (and Transport Scotland as Trunk Roads Authority) shall be agreed with the Council as Planning Authority (in consultation with Roads and Transportation Services and Transport Scotland as Trunk Roads Authority).

Reason: In the interest of road and public safety and in order to retain effective planning control.

6. That unless otherwise agreed the design and layout of the roundabouts and internal spine roads throughout the site should be in accordance with the "Design Manual for Roads and Bridges" and the Council's current "Guidelines for Development Roads", including the "Interim Guidance" of January 2011, and subject to more detailed discussion and agreement with Roads and Transportation Services prior to submission of a Roads Construction Consent application.

Reason: In the interest of road and public safety and in order to retain effective planning control.

7. That prior to any work starting on site, a Drainage Assessment in accordance with 'Drainage Assessment - A Guide for Scotland', shall be submitted to and approved in writing by the Council as Planning and Roads Authority (and the Scottish Executive as Trunk Roads Authority).

Reason: To demonstrate that a satisfactory means of waste and surface water drainage can be achieved.

8. That the further application required under the terms of Condition 1 above, shall include a detailed scheme for surface water drainage. Surface water from the site shall be treated in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland and with the Council's Sustainable Drainage Design Criteria and requirements and shall be agreed in writing with the Council as Planning Authority in consultation with SEPA.

Reason: To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.

9. That no development shall commence on site until the applicant provides written confirmation from Scottish Water to the Council as Planning Authority that the site can be satisfactorily served by a sewerage scheme designed in accordance with Scottish Water's standards.

Reason: To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal

adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.

10. The applicant shall undertake a noise assessment to determine the impact of noise from the proposed development on nearby dwellings and any noise sensitive premises using the principles set out in British Standard BS 4142:2014 - Method for Rating and Assessing Industrial and Commercial Sound, or by a method agreed by the Planning Authority. The assessment shall be submitted to and approved by the Planning Authority and shall identify the predicted Rating Level and measured Statistical Average Background Noise Level at nearby dwellings and noise sensitive premises. Where the Level of Significance as described within the Scottish Government Document: Technical Advice Note Assessment of Noise, identifies changes in noise as moderate or greater (assessed with windows open), a scheme for protecting the proposed dwelling(s) from industrial / commercial noise shall be submitted to, and approved by, the Planning Authority. The approved scheme for the mitigation of noise shall be implemented prior to the development being brought into use and where appropriate, shall be retained in accordance with the approved scheme to the satisfaction of the Council as Planning Authority.
The Background Noise Level for the most sensitive period that the source could operate should be used for this assessment. Any survey submitted should assess the noise effects of commercial vehicle deliveries on adjacent dwellings and noise-sensitive premises.

Reason: To minimise noise disturbance to adjacent occupants.

11. Prior to the development being brought into use, details of the storage of waste arising from the commercial activity shall be submitted to and approved in writing by the Council as Planning Authority. The agreed details shall be in place prior to the development being brought into use.

Reason: To minimise nuisance, littering and pest problems to nearby occupants.

12. Prior to development commencing on site, details of the proposed floodlighting scheme shall be submitted to and approved in writing by the Council as Planning Authority. The scheme shall include, where appropriate, details of all aspects of the installation including specific luminaire and lamp type; beam control; wattage; the use of reflectors; baffles; louvres; cowling (including colouring); lux contours/distribution diagrams and column type/colour. The approved scheme shall be implemented prior to the development being brought into use and shall thereafter be operated in accordance with the approved scheme to the satisfaction of the Council as Planning Authority.

Reason: To minimise the risk of nuisance from light pollution to nearby occupants.

13. The applicant should be required to undertake and submit an air quality impact assessment which satisfies the Planning Authority that the Local Air Quality Management Objectives for the pollutants specified in the Air Quality Regulations, made under Part IV of the Environment Act 1995, will not be exceeded at East Kilbride Town Centre AND/OR residential properties in the vicinity of the development namely in Telford Road, Denholm Crescent, Denholm Green, Sinclair Park, Sinclair Place, Avondale Avenue, Avondale Place and Roxburgh Park due to the impacts of the proposed development and to the increase in traffic associated with the development. The survey and report should use a method based on the principles set out in the Environmental Protection UK document Development Control: Planning for Air Quality (2010 Update) and Scottish Government publication "Local Air Quality

Management Technical Guidance LAQM.TG(09)" or a method that has been agreed with the Planning Authority.

Reason: To minimise the risk of nuisance from pollutants to nearby occupants.

14. That the further application(s) required under the terms of Condition 1 above shall include a Flood Risk Assessment for the consideration and detailed approval of the Council as Planning and Roads Authority.

Reason: To minimise the risk of flooding.

15. No development shall be occupied until modifications to the A726 Murray Roundabout, generally as illustrated on the Transportation Assessment drawing number SK02 previously submitted, have been completed to the satisfaction of the Council as Planning Authority in consultation with Transport Scotland and Roads and Transportation Services.

Reason: To ensure that the standard of infrastructure modifications to the trunk road comply with current standards and that the safety and free flow of the traffic is not diminished.

16. No development shall be occupied until provision has been made towards the modifications of the A725 Whitemoss Roundabout, generally as illustrated on the Transportation Assessment drawing number SK03 as previously submitted to the satisfaction of Council as Planning Authority in consultation with Transport Scotland and Roads and Transportation Services. The nature of the provision shall either be the physical implementation of the modifications or a contribution towards the cost of the works and shall be agreed with the Council as Planning Authority in consultation with Transport Scotland and Roads and Transportation Services.

Reason: To ensure that the standard of infrastructure modifications to the trunk road comply with current standards and that the safety and free flow of the traffic is not diminished.

17. The proposed signalisation of the Churchill Avenue / Rothesay Street / Site Access junction shall incorporate queue detection on the northbound approach from the A726 Murray Roundabout. The specification for the queue detection shall be agreed with the Council as Planning Authority in consultation with Transport Scotland and Roads and Transportation Services.

Reason: To ensure that the standard of infrastructure modifications to the trunk road comply with current standards and that the safety and free flow of the traffic is not diminished.

18. No part of the development shall be occupied until a comprehensive travel plan that sets out proposals for reducing dependency on the private car has been submitted and approved in writing by the Council as Planning Authority in consultation with Transport Scotland and Roads and Transportation Services.

In particular the Travel Plan shall identify measures to be implemented, the system of management, monitoring, review, reporting and duration of the plan.

Reason: To be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport.

19. Prior to the commencement of any part of the development hereby approved details of the lighting within the site shall be submitted to and approved by Council as Planning Authority in consultation with Transport Scotland and Roads and Transportation Services.

Reason: To ensure there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

20. Prior to development commencing on site a detailed design for a signalised junction generally in accordance with Transportation Assessment drawing number SK01 as previously submitted for the development access on Churchill Avenue which also incorporates improvements on Rothesay Street and at the Murray Roundabout be submitted to the Council as Planning Authority in consultation with Roads and Transportation Services and Transport Scotland and thereafter implemented prior to any part of the development opening.

Reason: In the interests of road and public safety.

21. That prior to the submission of the detailed design required under Condition 20 above, traffic surveys are required to be undertaken for morning and off peak times to inform the signal timings, to the satisfaction of the Council as Roads and Transportation Authority.

Reason: In the interest of road and public safety and in order to retain effective planning control.

22. That prior to development commencing on site a parking review be submitted to demonstrate how the proposed development meets the Council's parking standards for the proposed supermarket and retail uses incorporating an assessment of the demand for spaces within the car park hereby approved generated by adjoining facilities including the ice rink and cinema to the satisfaction of Planning and Building Standards Services in consultation with Roads and Transportation Services.

Reason: In the interest of road and public safety and in order to retain effective planning control.

23. That prior to development commencing on site a detailed layout of the car park, demonstrating how the parking numbers in the parking review will be accommodated and be brought into use to the satisfaction of the Council as Roads and Transportation Authority.

Reason: To ensure the provision of adequate parking facilities within the site.

24. That prior to the development commencing on site, a Stage 2 Safety Audit, in accordance with the Institute of Highways Transportation Guidelines, should be submitted for all infrastructure to be constructed and adopted, or altered, on the public road to the satisfaction of the council as Roads and Transportation Authority.

Reason: In the interests of road and public safety.

25. Prior to the development being open (or as agreed by the Council as Roads and Transportation Authority), all infrastructure modifications, both internal and external to the site, required by the Council as Roads Authority shall be completed at the applicants expense and open to traffic and pedestrians to the satisfaction of the Council as Roads and Transportation Authority.

Reason: In the interest of road and public safety and in order to retain effective planning control.

26. Prior to the development commencing on site a programme indicating the phasing of construction of the scheme, together with the circulation of vehicles and pedestrians, is submitted to the Council as Roads and Transportation Authority for approval.

Reason: In the interest of road and public safety and in order to retain effective planning control.

27. All lifts and/or hoists, including doors, guide rails and ancillary plant and machinery, and mechanical air handling/ air conditioning plant, shall be suitably isolated from the structure of the building, and ducted systems to minimise transmission of noise and vibration.

Reason: To ensure that nearby occupiers are not subjected to the risk of nuisance from noise and vibration.

28. Prior to development commencing on site, a scheme for the control and mitigation of dust shall be submitted to and approved in writing by the Council as Planning Authority. No changes to the approved scheme shall take place unless agreed in writing by the Council as Planning Authority. The scheme shall thereafter be implemented in accordance with a programme to be agreed in writing with the Council as Planning Authority.

Reason: To safeguard the amenity of the area.

29. Prior to development commencing on site, a dust management and monitoring scheme shall be submitted to and approved in writing by the Council as Planning Authority. The scheme shall thereafter be implemented in accordance with a programme to be agreed in writing with the Council as Planning Authority.

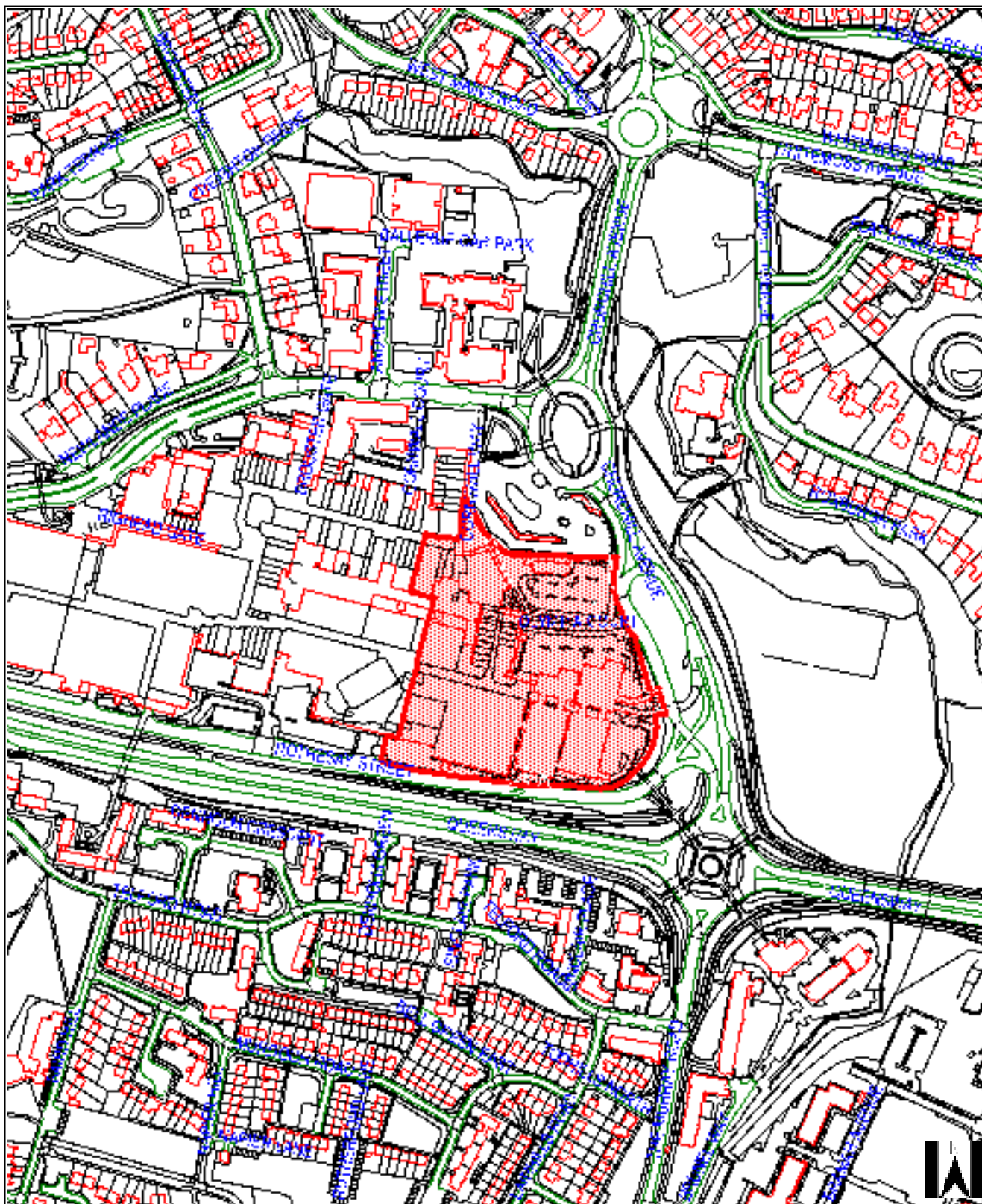
Reason: To safeguard the amenity of the area.

EK/18/0041

Planning and Building Standards

Olympia, Princess Mall and Olympia Arcade, East Kilbride
Shopping Centre

Scale: 1: 5000



For information only

For information only