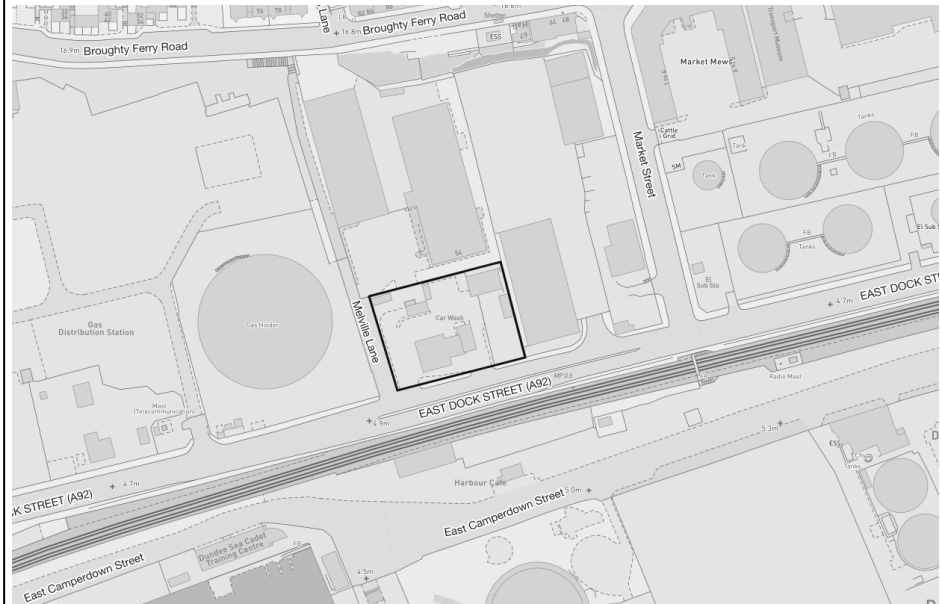


Change of Use From Car Wash Building to Drive-Thru Coffee Shop

KEY INFORMATION

Ward Maryfield
Address
 54B East Dock Street
Applicant
 Henrys Coffee House Ltd
Agent
 Peter Inglis
Registered 15 August 2022
Report by Head of Planning & Economic Development
Contact: Edward Bean



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SUMMARY OF REPORT

- Planning permission is sought for the change of use of a car wash building to a drive-through only coffee shop, at 54B East Dock Street, Dundee. The proposal would also involve alterations to the existing building.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. Two letters of objection have been received. Forty eight letters of support have also been received.
- This application requires to be determined by the Planning Committee at the request of an elected member.
- More details can be found at: <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?keyVal=RGEEQOGCLAK00&activeTab=summary>

RECOMMENDATION

The application fails to comply with Policies 1, 3, 6, 21, 54 and 56 of the adopted Dundee Local Development Plan. There are no material considerations of sufficient weight to justify approval of the application contrary to the provisions of the Plan. It is therefore recommended that planning permission be REFUSED.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the change of use of a car wash support building to a drive-through only coffee shop, within the site at 54B East Dock Street, Dundee. The applicant has confirmed that there will be no customer facilities within the building, and that customers will only access the business by vehicle, and remain in the vehicle throughout.
- 1.2 Orders would be taken from a remote order point on the north side of the building and orders collected from a drive thru collection point window to be formed in the east elevation.
- 1.3 Other alterations to the building include the infilling of an existing fire exit within the east elevation. A number of existing bollards would be moved. The exterior of the building would otherwise remain unchanged with the exception of signage which would be subject to a separate application for advertisement consent.
- 1.4 The drive-through only coffee shop would occupy the central east building of the car wash site. The adjoining canopy at the west would remain in use as a car wash. Internally, alterations to the building would provide for staff prep areas and a WC. There will be no customer facilities within the building.
- 1.5 Submitted circulation information indicates vehicles using the proposed drive-through would enter at the west vehicular access to the site from East Dock Street, proceed around the north side of the car wash and coffee shop buildings, and use the collection point window on the east facing elevation of the building before egressing to East Dock Street at the east vehicular access of the site.
- 1.6 The proposal would connect to the public water supply and sewer network. The existing bin store area adjacent to the building would be used for recycling materials.
- 1.7 The applicant has submitted the following in support of the application:
 - Supporting Statement;
 - Transport Statement; and
 - Design Statement.



Figure 1 – Proposed Site Plan

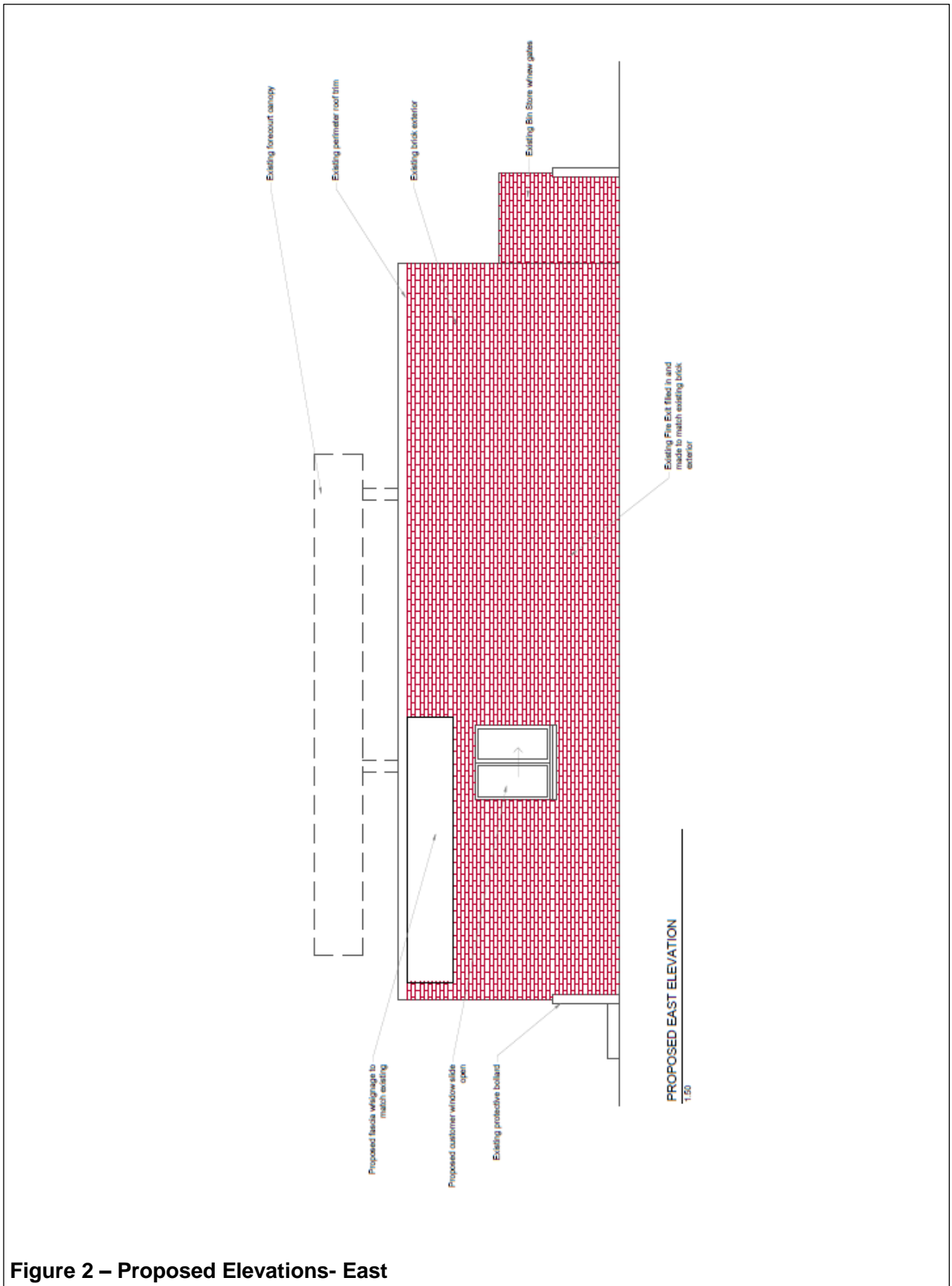


Figure 2 – Proposed Elevations- East

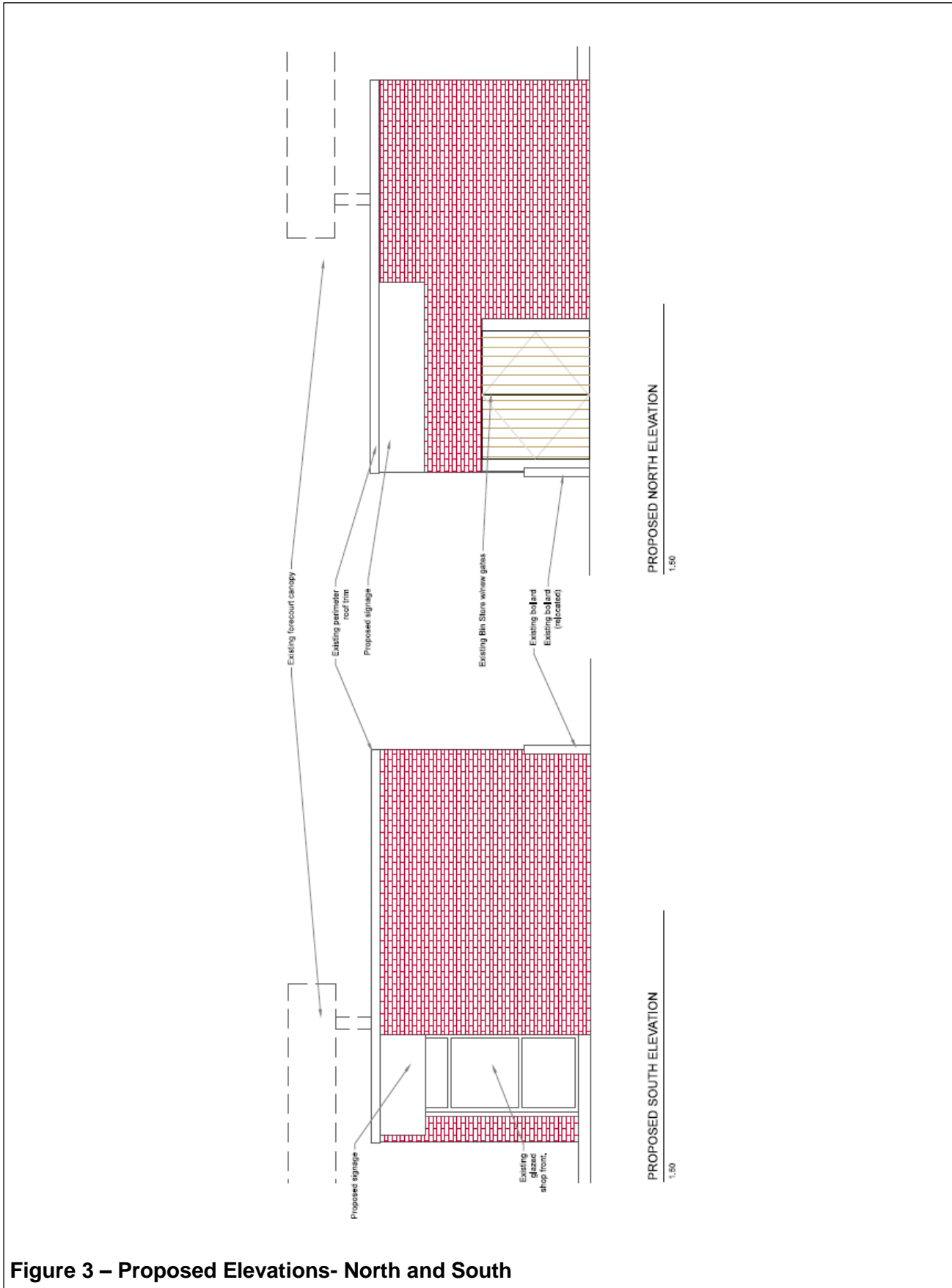


Figure 3 – Proposed Elevations- North and South

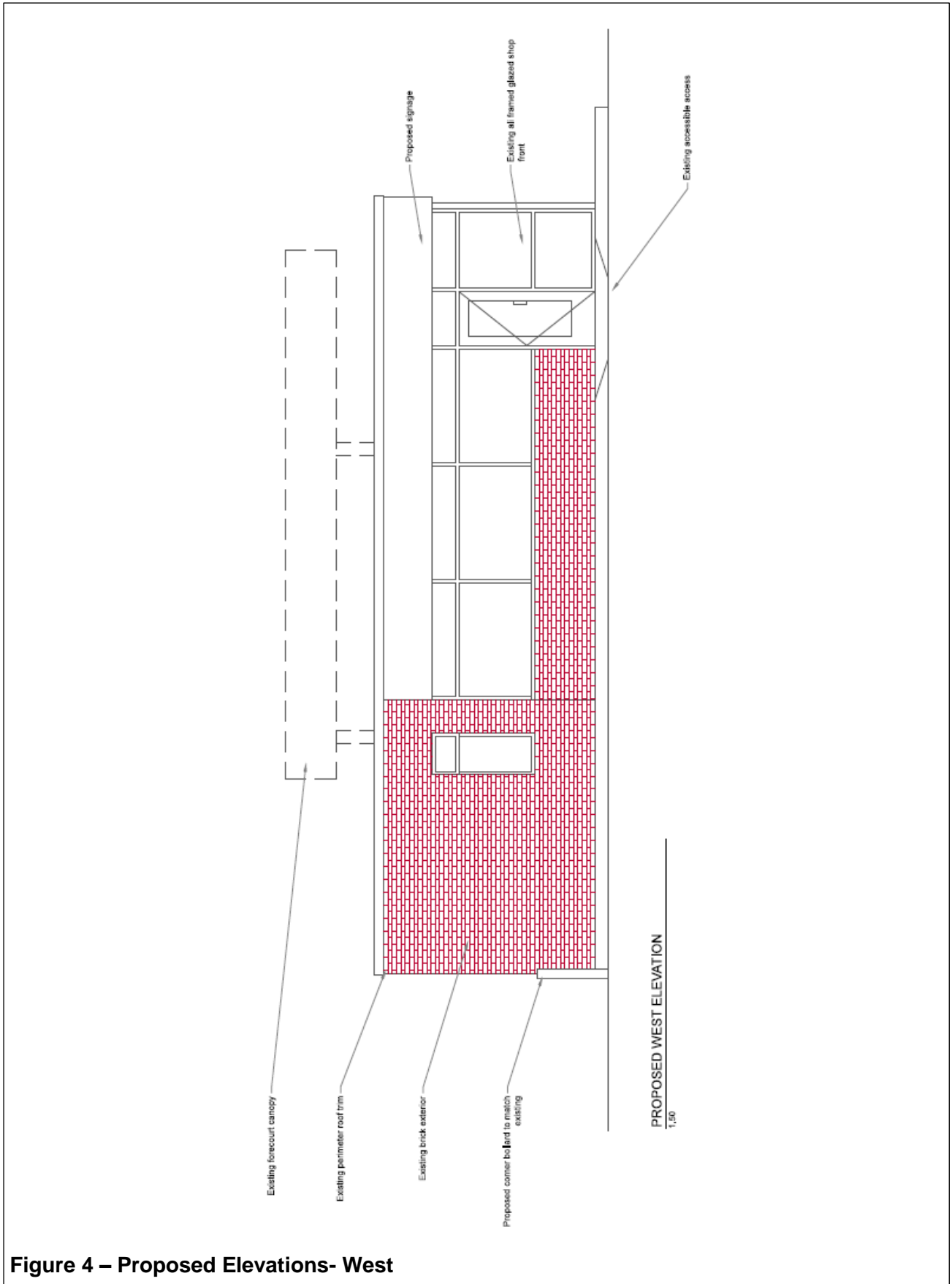


Figure 4 – Proposed Elevations- West

2 SITE DESCRIPTION

- 2.1 The application site at 54 East Dock Street is a 2,900m² mixed use site located north of and taking access from 2 junctions with East Dock Street. The application building (54B) is an 80m² building with an attached 277m² canopy and is used as a car wash and located centrally towards the south boundary of the site. 54C is a cabin building and surrounding parcel of land at the north west corner within the site used for car sales. 54A is a car tyre yard and building that extends across the east boundary of the site.
- 2.2 The site is bound by the carriageway and public footway of East Dock Street (A92) at the south, Melville Lane at the west and neighbouring industrial sites at the north and east. The open aspect of the site faces south towards East Dock Street, where it is enclosed by a low height boundary wall between two vehicle access/egress openings, serving the whole site. The site is enclosed by timber fencing at all other boundaries.
- 2.3 The adjacent former Dundee Gasworks site was identified in 2021 as the preferred home of the Eden Project Dundee and work is ongoing to explore the practicalities of converting the post-industrial site into a visitor attraction. A gas holding tank is located some 45m east of the application site. The Hazardous Substances Consent covering that tank was revoked on 5 November 2021.



Figure 5 – Photo of Existing East and West Elevations From Within The Site



Figure 6 – View of Site From South

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

TAYPlan 2016-2036

The application raises no issues of relevance.

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design/Placemaking

Policy 3: Principal Economic Development Areas

Policy 6: Ancillary Services within Economic Development Areas

Policy 21: Town Centre First Principle

Policy 27: Public Houses, Restaurants and Hot Food Takeaways

Policy 42: Development of or next to Major Hazard Sites

Policy 54: Safe and Sustainable Transport

Policy 56: Parking

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTICES AND CIRCULARS

3.2 There are no other plans, policies and non-statutory statements that are of direct relevance.

4 SITE HISTORY

4.1 Planning application 21/00859/FULL was withdrawn in January 2022 for the change of use from car wash building to coffee shop with drive-thru, including external alterations to the building.

4.2 Planning application 22/00403/FULL was withdrawn in July 2022 for the change of use from car wash building to coffee shop with drive-thru, including external alterations to the building.

5 PUBLIC PARTICIPATION

5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.

5.2 Two letters of objection have been received. The objections raised the following concerns:

- Contrary to Policy 21: Town Centre First Principle;
- Contrary to Policy 54: Safe and Sustainable Transport; and
- Contrary to Policy 56: Parking.

5.3 Forty eight letters of support have been received. The letters of support are generally on the grounds that the contributor supports the principle of a drive through coffee shop in this location. Several of the letters also support the development on the grounds that it will create jobs and thus support the local community.

5.4 The matters raised in the representations are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 **Transport Scotland** – no objection and no comments to make.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission (other than for a national development) shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

The provisions of the Development Plan relevant to the determination of this application are specified in the Policy Background section above.

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.2 **Policy 1: High Quality Design and Placemaking** – requires all development proposals to follow a design-led approach to sustainable and high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, creating a sense of community and identity, and enhancing connectivity, with creative approaches to urban design, landscaping and green infrastructure. New development is required to meet the six qualities of successful place, in accordance with Appendix 1, creating development which would be distinctive, safe and pleasant, easy to move around and beyond, welcoming, adaptable, and resource efficient.
- 7.3 The proposed alterations to facilitate the use of the building as a drive-through coffee shop would be readily visible from outwith the application site. They would not appear as incongruous features against the context of the existing utilitarian forecourt building. In terms of Appendix 1 considerations, the proposed development through its nature would increase reliance on the private car and fails to prioritise and encourage sustainable and active travel choices, such as walking, cycling and public transport and is therefore contrary to Criterion 3 of Appendix 1.
- 7.4 **The proposal does not fully comply with Policy 1.**
- 7.5 **Policy 3: Principal Economic Development Areas** - safeguards Principal Economic Development Areas for Class 4 Business, Class 5 General Industry and Class 6 Storage and Distribution uses, as areas of city-wide significance.
- 7.6 The proposal is for a food and drink takeaway use (Sui Generis - no defined Use Class). The proposed drive-through coffee shop use of the site does not fall within the defined Use Classes 4, 5 and 6 that development plan policy aims to direct to Principal Economic Development Areas, in the interests of safeguarding employment and business land from other development pressures.
- 7.7 At a city-wide level, Dundee's availability of business land has been reducing due to up take on a number of key sites across the city. The local supply reduced by 35% over a 7-year period (2013-2019). Dundee City Council will publish a subsequent Business Land Audit (2022) in

the coming months and it is prospectively evidencing that the supply has reduced further since the 2019 audit.

- 7.8 The tight physical boundaries of Dundee are such that in the long term there is a finite supply of land suitable for business use. Principal Economic Development Areas are subject to enhanced policy consideration and exist to provide quality business environments in locations that are proven to be highly suitable to both the transport network and their workforce accessibility. It is therefore crucial that the site be safeguarded for employment use due to its policy designation as a Principal Economic Development Area. There is a requirement to retain well-located industrial and business sites, including those with buildings that are readily available for employment use, to ensure that Dundee can accommodate both growing and new businesses into the right locations at any time. The Council has seen a recent increase in demand for small industrial units that are already constructed and approval of this application would miss an opportunity to use such a unit for a viable business in compliance with the development plan. No information about marketing the building for a compliant use was submitted with the application, and the application is clearly contrary to the development plan. It is important to resist development pressures for uses outside Classes 4, 5 and 6 on land allocated for employment uses to ensure that Dundee can respond quickly to proposals for employment uses and ensure successful and sustainable economic growth in the City.
- 7.9 **The proposed development would introduce non-conforming development into a Principal Economic Area where the development plan seeks to safeguard that land for employment uses and is contrary to Policy 3 of the development plan.**
- 7.10 **Policy 6: Ancillary Services within Economic Development Areas** - supports small scale ancillary services which can be demonstrated to meet the needs of employees and complement existing businesses.
- 7.11 The proposal is for the re-purposing of an existing building to introduce a drive-through coffee shop. The proposal is not small-scale and goes beyond the ancillary nature of complementary land uses that Policy 6 is seeking to permit in Economic Development Areas. The proposed development would be located at the south edge of the Economic Development Area, with the open aspect and the vehicular accesses to the site facing south onto East Dock Street (the public footway and carriageway of which are not within the defined Principal Economic Development Area). It is not unreasonable to assume that the proposed development would primarily capture custom from vehicle traffic using the adjacent East Dock Street (A92) trunk road. The nature and scale of the proposed use is not ancillary to the wider Economic Development Area.
- 7.12 **The proposal is contrary to Policy 6.**
- 7.13 **Policy 21: Town Centre First Principle** - requires that all new or expanded uses that would generate significant footfall should be located in the City Centre or a District Centre. Proposals for such uses in other locations would only be acceptable where it can be established that:
- 1 no suitable site is available, in the first instance, in the City Centre or District Centres, then edge of town centre, then identified Commercial Centres, and then out-of-centre locations that are easily accessible by a choice of transport modes;
 - 2 the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres, or Commercial Centres, either individually or cumulatively; and
 - 3 the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres.

- 7.14 The Policy emulates the Scottish Government's Town Centre First Principle by locating footfall generating uses sequentially within the City and District Centres etc.
- 7.15 The proposed development would introduce a drive-through coffee shop, which is a significant footfall generating use, at a location outwith the City Centre and not within any of the city's District Centres or Commercial Centres. The applicant has submitted a supporting statement which details that 'there are no sequentially preferable sites which meet the Applicant's requirements. However, no formal evidence to support this conclusion has been submitted. There is therefore no clear evidence that no suitable site is available within any of the defined areas of the City that Policy 21 seeks to direct footfall generating uses towards. As such, the application is contrary to Criterion 1 of Policy 21.
- 7.16 The introduction of a footfall generating drive-through coffee shop use at the site would have the potential to attract custom away from existing coffee shop establishments within the City Centre, District Centres and Commercial Centres. In addition, the car borne nature of the customers would remove any potential for linked trips to, and additional spend with other businesses within the network of centres. No supporting information has been submitted that demonstrates that the proposed development would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres or Commercial Centres. As a result, the application is contrary to Criterion 2 of Policy 21.
- 7.17 There are other examples of drive-through coffee shops facilities located in out-of-town locations in the City - some being located in locations such as Commercial Centres and others at roadside locations such as those located on the Kingsway. There are also numerous Class 3 coffee shops and fast food outlets located across the city. The City Centre and Albert Street District Centre are both a relatively short 1km drive from the site, meaning that drivers could use the numerous existing Class 3 facilities in those locations. No supporting information has been submitted to demonstrate that the proposed development would address a deficiency in provision which cannot be met within or on the edge of these centres. The application is therefore contrary to criterion 3 of Policy 21.
- 7.18 The application and submitted information do not reasonably demonstrate that there are no sequentially preferable options available. The proposed development is contrary to Policy 21 of the Development Plan.
- 7.19 **The proposal is not in accordance with Policy 21.**
- 7.20 **Policy 27: Public Houses, Restaurants and Hot Food Takeaways** - supports proposals for hot food takeaways and restaurants outside the City Centre and District Centres where the premises has a gross floor area of up to 150m² and more than 30 metres from existing or proposed housing. If the floor area proposed would be over 150m², a 45 metre separation would be required from the curtilage of the proposal to the facade of any existing or proposed houses. Proposals which do not meet these requirements may be permitted subject to a restriction on opening times and cooking methods.
- 7.21 In this case, the gross floor area of the proposed unit would not be in excess of 150m². The nearest houses are more than 30 metres to the curtilage of the application site. The proposal would therefore meet the requirements of Policy 27 and would not impact upon the nearest residential properties.
- 7.22 **The proposal complies with Policy 27.**
- 7.23 **Policy 42: Development of or next to Major Hazard Sites** states that the siting of new or extensions to existing major hazard sites or sites which operate under Scottish Environment Protection Agency authorisation will not be permitted in close proximity to residential areas

and/or areas of public use or interest, where the risk to people or the environment is likely to be significantly increased.

- 7.24 The site is around 45m east of a former gas holding tank site which was subject to a Hazardous Substances Consent. The Hazardous Substances Consent was revoked on 5 November 2021 and the Health & Safety Executive has indicated that it does not advise against, on safety grounds, the granting of planning permission in this case.
- 7.25 **The proposal does not give rise to any significant issues in terms of Policy 42.**
- 7.26 **Policy 54: Safe and Sustainable Transport** - seeks that all development proposals which generate travel should be designed and well served by all modes of transport, and will be required to:
- 1 minimise the need to travel by private car;
 - 2 provide on-site facilities and links for walking and cycling;
 - 3 have access to public transport networks within 400 metres;
 - 4 have no detrimental impact on the existing road or rail network;
 - 5 ensure safe provision for freight and waste access and loading;
 - 6 comply with national and Dundee City Council's road design standards; and
 - 7 be supported by a travel plan where significant travel would be generated.
- 7.27 The nature of the proposal as a drive through takeaway would require customers to access the site in a vehicle. This actively increases the need to travel by private car.
- 7.28 In terms of accessibility for staff, the site is located within walking distance of bus routes as discussed under criterion 3 below. The site is adjacent to - and solely takes vehicular access from - the A92 dual-carriageway road, which physically segregates the site from the established cycle route through the Harbour and Stannergate areas to the south, and, whilst a bicycle could be ridden on the dual-carriageway to provide direct access to the site, it is reasonable to conclude this would not be a necessarily safe or pleasant way to access the proposed development.
- 7.29 It is accepted that it is possible for staff to access the site by multi-modal and sustainable forms of transport such as walking, cycling and public transport, however, the quality of these links is poor for the reasons discussed above. Therefore, it is concluded that the site proposed for development would not be readily accessible by a choice of transport modes and would increase reliance on the private car in a location where access to walking, cycling and public transport is poor in quality. The proposal would not reduce the need to travel by private car and is therefore contrary to criterion 1.
- 7.30 The nature of the proposal as a drive through takeaway means that no facilities for walking or cycling are required for customers. A cycle rack is to be provided for staff, however no provision has been made to provide covered secure cycle parking with changing facilities for employees. The proposals are therefore contrary to criterion 2.
- 7.31 The site is located within 400 metres of the bus routes on Broughty Ferry Road. Existing bus stops are located around 250 metres to the north with access to the application site taken

either by the public footway on Market Street through the wider industrial area to the east or, more directly, by Melville Lane. The proposals can therefore comply with criterion 3.

- 7.32 The utilisation of an existing access onto the A92 trunk road is acceptable and does not raise any road safety concerns. The level of traffic generated by the proposed development would have no detrimental impact on the local road network. Following consultation, Transport Scotland have raised no objection. Due to the nature of the proposal, deliveries would be made by vans and lorries which are not of a significant scale. The existing vehicular routes within the site would be of a sufficient size to accommodate such vehicles during deliveries. proposal. The proposals are therefore in accordance with criteria 4, 5 and 6.
- 7.33 Given the nature and scale of the development it is not considered necessary to seek a travel plan to mitigate the transport impacts of the development as required by criterion 7.
- 7.34 **The proposal is not in accordance with Policy 54.**
- 7.35 **Policy 56: Parking** - requires that outside the City Centre all new developments shall be required to comply with Dundee City Council's adopted guidance on road standards and national standards. All new developments should include cycle parking facilities in accordance with adopted guidance. All parking facilities at commercial developments should include changing facilities for employees and the provision of charging stations for electric vehicles.
- 7.36 Given the particular nature of this development proposal whereby customers will only access the business in a vehicle, and remain in the vehicle, there is no requirement for customer vehicle parking to be provided.
- 7.37 As discussed above, a cycle rack is to be provided for staff, however no provision has been made to provide covered secure cycle parking with changing facilities for employees. The Head of Sustainable Transport and Roads confirms that no additional vehicular parking is required on the site.
- 7.38 **The proposal is contrary to the terms of Policy 56.**
- 7.39 **It is concluded that the proposal is not in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

The material considerations to be taken into account are as follows:

A - REPRESENTATIONS

- 7.40 Two letters of objection and forty eight letters of support have been received.
- 7.41 The objections raised the following concerns:
- Contrary to Policy 21: Town Centre First Principle;
 - Contrary to Policy 54: Safe and Sustainable Transport; and
 - Contrary to Policy 56: Parking.
- 7.42 In response, the issues raised regarding the proposal being contrary to Policies 21, 54 and 56 have been fully addressed within the main body of this report. The above concerns raised in public comment in objection have been considered in the preparation of the report and support the decision to refuse planning permission where it is also contrary to the relevant policies of the development plan.

- 7.43 The letters of support are generally on the grounds that the contributor supports the principle of a drive through coffee shop in this location. Several of the letters also support the development on the grounds that it will create jobs and thus support the local community.

B – APPLICANT'S SUPPORTING STATEMENT

- 7.44 The Applicant's Supporting Statement provides an overview of the proposal and indicates, among other things, that the product offering would be the same as the applicant's other establishments, the proposal would create between 15 and 20 jobs, and the applicant's existing coffee shop locations would not be affected. Their plan is to grow their brand in Dundee, as they hope to be part of the regeneration of the city and hope to see independent local business operators are at the centre of that. Reference is made to the prevalence of other big brand drive-throughs on the Kingsway. The applicant has 3 locations in the city centre and indicates this no longer represents an opportunity to grow, as the marketplace is already over saturated with a number of other operators and a drive-through represents the best opportunity for their business to grow within Dundee City. This would allow them to compete with their competitors who already have a number of drive-throughs operating in the city.

C – DESIGN STATEMENT

- 7.45 The Design Statement submitted in support of the application provides an overview of the proposal and indicates that the application seeks a change of use of the former sales building on the site from a car wash support building to a drive-through coffee shop. The car wash operation would still take place on the forecourt, under the canopy and the 'drive-through' traffic would use the perimeter to pass through the site, utilising the existing entrance and exits. The Statement indicates the site is within a Principal Economic Development Area and this small-scale service is seen as ancillary to the Class 4, 5 and 6, main employers in the area, as well as travellers along the adjacent trunk road, as permitted under Policy 6. Whilst it is vehicle dependant, this facility is not envisaged as expanding unsustainable traffic movements, but serving a post-pandemic purchasing trend for customer convenience and safety. An assessment against relevant policies of the development plan is provided and it is indicated that the operator of the proposed coffee shop already supports the City Centre with three outlets therein.

Response to Applicant's Supporting Statement and Design Statement, and Letters of Support

- 7.46 It is accepted that there would likely be additional employment opportunities created through the operation of the business, and the applicant has indicated that the development would create 15-20 jobs. However, information has not been provided to quantify net economic impact associated with the proposal, and the applicant has not stated how the development would create 15-20 jobs or whether those jobs would be a result of displacement, potentially from other compliant uses within the city's existing network of centres. As such, this does not justify a departure from the aims of the development plan in safeguarding employment land and directing footfall generating uses to the City Centre and District Centres where links to sustainable transport networks are available.
- 7.47 The proposal would provide some additional choice and it may provide some economic benefit. However, there is no information to demonstrate that there is an overriding need for the provision of a new drive-through coffee shop on a site outwith the City Centre, District Centres and Commercial Centres, that has poor multi-modal accessibility, and there is no evidence to demonstrate it would provide significant net economic benefit that would justify setting aside development plan policy requirements regarding location of development and accessibility.

- 7.48 The previous grant of planning permission for similar forms of development at out-of-centre locations does not justify approval of planning permission, particularly where it is contrary to the relevant policies of the current development plan and would further erode the viability and vitality of the city's existing network of centres. It is also noted that planning policy is evolving in relation to the Town Centres First Principle, with the policy position to resist out of centre footfall generating uses, further reduce reliance on the private car and to direct new development to locations which are accessible by a choice of transport modes including walking, cycling and public transport. In that context, additional vehicle/footfall generating uses outwith the Council's existing network of centres should be resisted.
- 7.49 Competition between the applicant and their business competitors cannot be controlled through the planning system and is not relevant to the determination of the application.
- 7.50 For the reasons discussed above in relation to development plan policy, the proposal for a drive-through coffee-shop is not small-scale, is not ancillary in nature and goes beyond the ancillary nature of complementary land uses that the development plan seeks to permit in Economic Development Area.
- 7.51 **The matters raised in the submitted supporting information from the applicant and letters of support have been taken into account, however, there are no material considerations of sufficient weight that justify approval of the application contrary to the development plan.**

8 CONCLUSION

- 8.1 The proposal fails to satisfy the requirements of the Development Plan. There are no material considerations of sufficient weight that would justify approval of planning permission. Therefore, it is recommended that this application be refused.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be REFUSED for the following reasons:
- 1 **Reason** - the proposal is contrary to Policy 1 of the Dundee Local Development Plan (2019) because the proposed development fails to prioritise and encourage sustainable and active travel choices, such as walking, cycling and public transport and is contrary to Criterion 3 of Appendix 1 – High Quality Design and Placemaking. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
 - 2 **Reason** - the proposal is contrary to Policy 3 of the Dundee Local Development Plan (2019) because the proposed drive-through coffee shop use does not fall within the defined Use Classes 4, 5 and 6 that development plan policy aims to direct to Principal Economic Development Areas, in the interests of safeguarding employment and business land from other development pressures. The proposed development would introduce other development pressures into a Principal Economic Development Area where the development plan seeks to safeguard that land for employment uses and this is contrary to Policy 3. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
 - 3 **Reason** - the proposal is contrary to Policy 6 of the Dundee Local Development Plan (2019) because the proposed drive-through coffee shop is not small-scale and goes

beyond the ancillary nature of complementary land uses that Policy 6 is seeking to permit in Economic Development Areas. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.

- 4 **Reason** - the proposal is contrary to Policy 21 of the Dundee Local Development Plan (2019) because it has not been reasonably demonstrated that there are no sequentially preferable options available, that the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres or Commercial Centres, or that the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
- 5 **Reason** - the proposal is contrary to Policy 54 of the Dundee Local Development Plan (2019) because the development would not minimise the need to travel by private car. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
- 6 **Reason** - the proposal is contrary to Policy 56 of the Dundee Local Development Plan (2019) because the proposal is a commercial development at an out-of-town location but does not provide covered secure cycle parking with changing facilities for employees.