

KEY INFORMATION

Ward Whitfield

Proposal

Commercial food retail development

Address

Land to South of Nursing Home
Ballumbie Road
Dundee
DD4 0PD

Applicant

D J Laing (Homes) Ltd
Laing House
Panmure Industrial Estate
Carnoustie
DD7 7NP

Agent

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Architects Studio
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Arbroath
DD11 1AW

Registered 10 Jan 2002

Case Officer C Walker



Proposed Shop at Ballumbie Road

The proposed commercial food retail development is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation.

SUMMARY OF REPORT

- Planning permission is sought to erect a 440 sq. metres shop on the site with vehicular access from Ballumbie Road and pedestrian access also from Ballumbie Meadows.
- Government policy, the Council's Local Agenda 21 policies and Proposal HS52 of the Local Plan support the provision of local shopping facilities. Outline planning permission was granted for a shop on this site in February 1998. Policy S19 sets out floorspace restrictions for corner shops and as the proposed development exceeds these floor areas it had been advertised as contravening this policy.
- Letters of objection were received from the occupiers of 96 dwellings in the adjoining housing developments as well as from the owners of the nursing home. Their concerns relate to issues of traffic safety and parking problems, noise, disturbance and anti social activity, litter, graffiti and vandalism. Other concerns include loss of privacy and overshadowing of houses, that the design of the proposed shop is unsatisfactory, that mature trees will be lost as a result of the proposed development, that the shop is larger than that previously approved and in excess of the size set out in the Local Plan and that there is no need for a shop at this location.
- The Director of Environmental and Consumer Protection considers that the proposal is potentially workable provided that possible noise impacts on adjacent housing is controlled.
- The proposed shop will provide a local facility in line with the Council's objectives in promoting sustainable development. Although the size of the proposed shop is larger than that envisaged by Policy S19 it will function as a local facility and will not adversely affect other centres. Finally planning conditions can be imposed in order to reflect the views of the Director of Environmental and Consumer Protection and to prevent any adverse impact on residential amenity.

RECOMMENDATION

The proposed shop will provide a local facility in line with the Council's objectives in promoting sustainable development. Although the size of the proposed shop is larger than that envisaged by Policy S19 it will function as a local facility and will not adversely affect other centres. Finally planning conditions can be imposed to prevent any adverse impact on residential amenity. The application is recommended for **APPROVAL** with conditions.

DESCRIPTION OF PROPOSAL

Planning permission is sought to erect a shop on the site. The proposed shop is single storey with a footprint of 440 sq. metres. Proposed finishing materials are facing brick to the front, roughcast to the sides and rear and grey tiles on the roof. The building has its entrance and shop windows to the front and all other elevations are blank other than a door to the store on the rear.

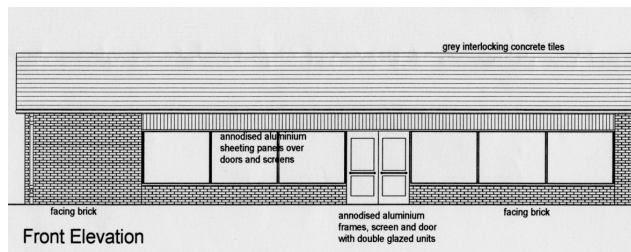
The proposed vehicular access is from Ballumbie Road at the northern site extremity. 3 trees would have to be felled to form the entrance. Pedestrian access is available both from Ballumbie Road and from a path leading from Ballumbie Meadows to the south of the site. A lockable gate will be provided at this pathway. A new footway would also be provided on the west side of Ballumbie Road from Berwick Drive to the site. 21 parking spaces are proposed in front of the building. However the applicants have indicated a willingness to reduce this number to 14 (which is the roads standards requirement) and provide additional screening to the house to the south (the views of the Director of Environmental and Consumer Protection in the Consultations section of this Report are relevant to this matter). Cycle parking is also provided. A gated service yard is proposed to the rear of the building. It is proposed to erect a 1.8 metres high boundary wall to the western and southern boundaries adjacent to housing.

The applicants have indicated that they would like hours of operation of 6am to 11pm with the service yard operating between 8am and 8pm. They state that a smaller size of unit would not be commercially viable. They also state (in response to allegations from 2 nearby residents) that the sales brochures for their development clearly indicate a proposed commercial development at this location with pedestrian access from Ballumbie Meadows and that no one was informed that this proposed commercial development would not be a shop or that access would not be taken from Ballumbie Meadows.

SITE DESCRIPTION

The site comprises some 0.2 hectares of ground on the west side of Ballumbie Road. It was last used as a builder's compound for the adjoining recently completed housing development to the south and west. To the east, on the opposite side of Ballumbie Road, is the Whitehazel Park housing development. To the north is a nursing home which sits on much higher ground.

There are mature trees on the eastern site boundary along Ballumbie Road. The adjoining houses to the west and south have slatted timber boundary fences. The nursing home to the north has a similar boundary but there is also a screen of trees behind it. There is a footway along the site boundary at Ballumbie Road leading to the nursing home.



POLICY BACKGROUND

National Planning Policy: NPPG8 - "Town Centres and Retailing" states that local shops provide an important service catering particularly for the daily or casual needs of nearby residents or of those passing by, that they can reduce dependence on the use of the car for shopping and have significant social and economic functions. It states that local convenience shops offer a particularly important and convenient service for those who are less mobile, especially the elderly and disabled people, families with small children, and those without access to a car. It adds that in peripheral housing estates they may provide the only accessible shopping facilities.

In the adopted Local Plan the site is located within an area covered by Housing Proposal HS 52 (Ballumbie). This proposal states that the site "should include some limited local facilities to serve only the immediate area (such as a corner shop and a doctors surgery if required). Care should be taken to reasonably insulate

any commercial uses from existing and proposed houses, e.g. by suitable landscaping."

Policy H1 of the Plan protects residential amenity but does not preclude the sensitive introduction of services or facilities which are desirable within residential areas.

Policy S19 states that in areas where shopping provision is low new shops up to a gross floorspace of 250 sq. metres or parades of shops up to 350 sq. metres will be acceptable in suitable locations which are not within easy walking distance of a District or Local Centre. As the proposed development exceeds these floor areas it had been advertised as contravening this policy.

LOCAL AGENDA 21

The proposal satisfies the Council's Agenda 21 policies by providing local facilities in an acceptable scale and form.

SITE HISTORY

Outline planning permission was granted for a shop on this site in February 1998 - application ref. no D23173 refers. Conditions on the consent restricted the hours of operation from 7am to 9pm and the size of the shop to 250 sq. metres. This consent was not implemented and has now lapsed.

PUBLIC PARTICIPATION

Statutory neighbour notification was been carried out and the proposal was advertised as contravening Policy S19 of the plan due to the size of the proposed shop. Letters of objection were received from the occupiers of 96 dwellings in the adjoining Ballumbie Meadows and Whitehazel Park housing developments as well as from the owners of the nursing home (copies available for inspection in the Member's Lounges).

The principal grounds of objection are:

- 1 The development will lead to traffic safety and parking problems. Attention is drawn to increased traffic levels due to the completion of the Ballumbie Golf Course and new housing and to the proximity of the shop entrance to the junction of

Ballumbie Road and Peebles Drive.

- 2 The development will lead to noise, disturbance and anti social activity. Residents fear that youths will congregate at the shop and will take short cuts through adjoining housing areas and that resulting problems of noise, litter, graffiti and vandalism will be experienced. Some residents fear that these problems will be exacerbated if alcohol is sold from the premises. Noise from traffic to the site and particularly from early morning service deliveries is anticipated. Concerns are expressed that residents in the nursing home will be subjected to these problems.
- 3 Residents close to the development feel they will suffer from a loss of privacy and overshadowing of their houses.
- 4 The design of the proposed shop is unsatisfactory.
- 5 Mature trees will be lost as a result of the proposed development.
- 6 The shop is larger than that previously approved and in excess of the size set out in the Local Plan
- 7 Many residents state that there is no need for a shop with existing provision at Kellyfield, ASDA and Sainsburys, the latter having a bus service to this area.

These grounds of objection are considered in the "Observations" section of this Report.

CONSULTATIONS

The Director of Environmental and Consumer Protection considers that the proposal is potentially workable provided that possible noise impacts on adjacent housing is controlled. He therefore requires all mechanical and electrical plant to operate to a noise rating of NR35 at the nearest houses, hours of operation for the shop to be restricted to from 7am to 10pm and for the service yard to be from 8am to 6pm and finally the removal of the southernmost parking bays adjacent to the house to the south and their replacement with landscaped bunding.

The Director of Leisure and Arts has not objected to the felling of trees to provide access to the site although he does seek details of new planting proposals.

OBSERVATIONS

The determining issues for the Committee in this instance are whether the proposals for the shop are satisfactory in terms of:

- 1 Policy S19 of the Local Plan and the size of the proposed unit; and
- 2 The likely impact of the development on residential amenity.

Policy S19 of the Local Plan:

The principle of providing a shop at this location is supported by National Planning Guidance and Local Plan policy. Proposal HS 52 of the adopted Local Plan supports local facilities for the Ballumbie housing development and a shop was previously approved on the site. Policy S19 of the Local Plan also accepts shops at a location such as this where provision is low. Policy H1 protects residential amenity but does not preclude the sensitive introduction of services or facilities which are desirable within residential areas.

The proposed unit exceeds the corner shop size of 250 sq. metres set out in Policy S19 of the Plan. Parades of shops of up to 350 sq. metres are also acceptable. It is clear from the preamble to this Policy that the size restrictions are geared to protect existing shopping centres and are not designed with residential amenity considerations in mind.

Increasingly, local shops (e.g. SPAR, Morning Noon and Night etc) tend to include a wider range of facilities with the one shop selling groceries, newspapers, videos etc. The proposed unit size in this case is not significantly in excess of the limit for parades of shops. It is not considered that this size of unit, given its nature and location and the lack of local shops in the vicinity, would in any way function other than a retail unit serving the surrounding housing areas and the increased size simply means that it would provide a better range of facilities for this local catchment. It is not considered that the proposed shop would in any way prejudice the viability of other designated shopping

centres in the city. A planning condition can also be imposed restricting the use of the shop so that it is predominantly a local convenience outlet. The issue of the impact of the proposed shop on residential amenity will be considered in the following paragraphs.

The provision of a shop at this location has been the subject of considerable debate in the context of the allocation of the site in terms of the Draft Dundee Local Plan 1994. Objections were received along similar lines to the objections to the current application. In the event the Scottish Executive Reporter concluded that it was appropriate to provide limited local facilities such as a corner shop at this location. Subsequently the Committee approved a shop at this site having paid due regard to the substantial body of objection received from local residents.

The Local Plan contains policies protecting residential amenity but does not consider this to be inconsistent with the provision of services and facilities which are desirable in residential areas and this point is specifically referred to in Policy H1 of the Local Plan.

Letters of objection were received from a significant number of local residents, although in percentage terms they represent a small minority of the total of over 664 houses in the Ballumbie Meadows and Whitehazel Park housing estates. Whilst the concerns expressed are genuine it is considered that the proposed development need not give rise to the adverse impacts feared by the residents. The objectors concerns are considered under the following headings:

Need for a Shop

There are some 610 houses at Whitehazel Park including the Barratts, Betts and Clova estates, a further 150 on the south side of Ballumbie Road and the Ballumbie housing development is likely to provide 195 houses. The nearest shop to the application site is some 300 metres away (as the crow flies) at Kellyfield/Aberlady Crescent. Ideally residents should have access to a local shop within easy walking distance (approx. 5 minutes or 0.5 km). The vast majority of houses in this area are not within this distance. ASDA and

Sainsburys are not within reasonable walking distance. It is therefore considered that there is a justifiable demand for a shop at this location in terms of serving an area of low provision.

Traffic Safety and Parking

Taking into account the scale and nature of the proposed development, it is not considered that there will be access or traffic safety problems. Parking provision at a reduced scale of 14 spaces complies with the Council's requirements for a shop of this size. There are also 4 further spaces at Ballumbie Meadows to the south of the site. An additional footway is proposed on the western side of Ballumbie Road and adequate facilities are proposed for both pedestrians and cyclists.

Size of a Shop

This issue has been considered in preceding paragraphs in the context of Policy S19 of the Local Plan.

Noise, Disturbance and Anti-Social Behaviour

Issues of vandalism, graffiti, noise and disturbance appear to be the principal concerns of local residents. They anticipate that there will be particular problems associated with the proposed shop because they consider that people will loiter there and that this will result in noise, disturbance and vandalism.

Whilst it is appreciated that the residents have fears about these issues, it is possible through the use of planning conditions to mitigate these potential problems so that the development can operate for the benefit of local residents without negative impacts. National and Local Plan policy supports the provision of local shopping and whilst the local community would clearly benefit from the provision of a local shop, no one would appear to want to have it beside them.

In order to avoid problems of subsequently introducing a shop within an existing housing area, provision was made for a shop at the outset of this housing development through the granting of planning permission in 1998. However it is clearly important to restrict the operation of the shop to ensure that adjoining residents are not inconvenienced. The Director of Environmental and Consumer

Protection was consulted and is of the opinion that the proposed shop can operate in such a manner that the environmental quality enjoyed by local residents will not be adversely affected in any significant manner.

It is considered that taking into account the size and location of the proposed shop, controls can be imposed to prevent negative impacts. Conditions can be imposed restricting hours of operation of the shop from 7 am to 10 p.m. and of the service yard from 8am to 8pm. These are not unusual hours for a local shop which tends to do much of its business early in the morning before people go to work and in the evening after they arrive home. The gateway to the path leading to Ballumbie Meadows can be the subject of similar controls. These hours of operation should ensure that there would be no problems with late hours operation. More restrictive controls can be placed on the service yard (8am to 6pm) as it directly adjoins the rear gardens of houses.

Substantial boundary enclosures (1.8 metre walls) are proposed to the housing area to the west and south of the site and these can be supplemented on the southern side by additional bunding and planting. A condition to this effect is proposed. A condition can also be imposed limiting noise levels from electrical and mechanical plant and requiring the provision of litter bins.

As a result of all these proposed conditions residents fears of noise and anti social activity at night time should not materialise and substantial screening will be provided to all the adjoining houses. The locking of the gate to the pathway will ensure that the site is not used as a shortcut at night time.

Overlooking and Overshadowing

The proposed building is single story only, contains openings only on the front elevation and the site will be surrounded by 1.8 metres high walls on its western and southern boundaries. In these circumstances it is not considered that the development will lead to overlooking or overshadowing of adjoining houses.

Loss of Trees

It is accepted that 3 trees will be felled to accommodate the entrance to the

proposed development (it is not possible to access the site without felling trees). The Director of Leisure and Arts has not objected to the felling of these trees although he does seek details of new planting proposals. This matter can be made the subject of a planning condition and it is considered that the protection of the trees to be retained coupled with new planting will enhance the appearance of the area.

Design

The design of the proposed shop is satisfactory for this location. The finishing materials are typical of those used on modern housing and although the side and rear elevations are featureless, they will not be very visible.

CONCLUSION

The proposed shop will provide a local facility in line with the Council's objectives in promoting sustainable development. Although the size of the proposed shop is larger than that envisaged by Policy S19, it will function as a local facility and will not adversely affect other centres. Finally planning conditions can be imposed to prevent any adverse impact on residential amenity.

RECOMMENDATION

It is recommended that planning permission be GRANTED subject to the following conditions:

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 The proposed shop shall be open to members of the public from 7am to 10pm only.
- 3 The proposed service yard to the rear of the shop shall be open only between the hours of 8am to 8pm and shall remain locked at all other times.
- 4 Details of the lockable gateway to the footway to the south of the site and the method of control which shall ensure it remains locked except during the hours of operation of the shop shall be submitted to the Council for approval before any development is commenced and if approved

the development shall be carried out only in full accordance with such approved details.

- 5 Details of all mechanical and electrical plant on the premises which shall operate to a level of NR35 as measured at the nearest house shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 6 Details of an amended site layout which shall remove the car parking bays adjacent to the house to the south of the site and replace them with landscaped bunding yet retain a minimum of 14 spaces within the site shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 7 The proposed 1.8 metres high brick walls along the southern and western site boundaries shall be erected prior to the first use of the shop.
- 8 Details of the provision of litter bins to serve this development shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 9 The use of the proposed shop shall be predominantly as a local convenience outlet with sales of comparison goods entirely ancillary to that use.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of residential amenity.
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- 6 In the interests of residential amenity.
- 7 To protect the privacy of the occupiers of the adjoining houses.
- 8 In order to make provision for litter control.
- 9 To ensure that the shop trades as a local convenience outlet in accordance with Policy S19 of the adopted Dundee Local Plan 1998.