

KEY INFORMATION

Ward Bowbridge

Proposal

Change of use from Fruit and Veg Shop into Takeaway Sandwich Bar

Address

1 Strathmartine Road
Dundee DD3 7RL

Applicant

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Registered 5 December
2002

Case Officer G Reid



Hot Food Takeaway Proposed in Strathmartine Road

The Change of Use from a Fruit and Veg Shop into a Takeaway Sandwich Bar is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

It is considered that the proposed change of use to a hot food take-away is in accordance with the policies of the development plan.

The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for a change of use from a fruit and veg shop to a day time hot food take-away at 1 Strathmartine Road, Dundee.
- The application raises issues for consideration in terms of the Retail and Leisure and Tourism Policies of the Dundee Local Plan 1998 and Policy 39 and Policy 53 of the Finalised Dundee Local Plan Review.
- A single letter of objection was received to the proposed change of use from an adjacent neighbour. The main grounds of objection were that the proposal was contrary to Policy 53 of the Finalised Dundee Local Plan Review, would result in anti-social behaviour and would result in the loss of a retail unit in the Hilltown.
- It is considered that the proposed change of use to a day time hot food take away is in accordance with the Retailing and Leisure and Tourism Policies of the Dundee Local Plan 1998 and the policies of the Finalised Dundee Local Plan Review. In addition, it is concluded that the issues raised in the letter of objection are of insufficient weight to warrant refusal of the application.

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from a fruit and veg shop to a take-away sandwich bar at 1 Strathmartine Road, Dundee.

The opening hours for the proposed take-away are 08.00 to 15.00 hours Monday to Saturday. The cooking equipment to be used is to include a cooker, microwave oven, toaster and food processor. Fume extraction equipment is to be included with the extractor hood above the cooker to be ducted to the atmosphere.

No external changes to the property are included in the current application.

SITE DESCRIPTION

The application site is located on the east side of Strathmartine Road and to the west of Mains Road. The application property consists of a single storey building and the ground floor of the adjacent 3-storey tenement block. The two elements form a single shop unit which, was previously occupied by Betty Whites fruit and veg shop. The premises are currently vacant. The surrounding ground floor uses are either shops or office type uses. The properties in the tenement block above the shops are all residential.



Leisure and Tourism Policy LT8 (Licensed and Hot Food Premises). This policy advises that premises selling hot food will not be acceptable within 30 metres of existing and proposed housing.

Leisure and Tourism Policy LT9 (Hot Food Carryout Premises). This policy allows for small scale hot food carryout premises and snack bars where the hours of operation are between 8am and 6pm and where the hot food to be sold is limited to snack items which do not require to be prepared on the premises and which only require heating by means of a microwave oven etc.

outwith District Centres no premises selling hot food is acceptable within 30 metres of existing or proposed housing. In District Centres some relaxation of this control on distance from residential property may be appropriate. However, proposals for hot food takeaways other than those which fall into restricted snack bars etc, will not be permitted in premises directly adjoining (ie directly above or to either side) residential property which is not within the control of the takeaway proprietor/operator.

In addition, Policy 53 states that where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above

requirements these may be permitted subject to: a) the hours of operation being limited to between 7.00am and 7.00pm, and b) the hot food not requiring to be prepared on the premises and only by heating by means of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application.

Non Statutory Statements of Council Policy

There are no Non Statutory policies of relevance to the determination of this application.

LOCAL AGENDA 21

Key Theme 7 is relevant and seeks that access to facilities, services, goods and people is not achieved at the expense of the environment and are accessible to all. Given the location and nature of the proposed operation it is considered that Key Theme 7 will be achieved.

SITE HISTORY

There is no site history of relevance to the consideration of this application.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan 1998

The following policies are of relevance:

Retailing Policy S17 advises that proposals which would result in the loss of shopping, other Class 1 retail use or café/restaurant use at street level will not be acceptable where it is located within a retail core frontage and will result in the number of shopping units falling below 60% of the total number of units in that frontage and/or will result in more than three consecutive units not in shopping use.

Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application.

Finalised Dundee Local Plan Review

The following policies are of relevance:

Policy 39: District Centre Core Areas. This Policy states that within core areas development proposals which would result in the loss of a Class 1 (retail) or restaurant and café uses at ground floor level will not be acceptable where they are located within the retail core and would result in more than 2 in 5 units in a single frontage being occupied by uses other than shops, restaurants and cafes.

Policy 53: Licensed and Hot Food Premises outwith the City Centre. This Policy states that in general,

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the application was advertised in the "Dundee Courier and Advertiser" on the 24 December 2002 under section 34 of the 1997 Act as a potential bad neighbour development. A single letter of objection was received to the proposal from a resident in the tenement block. The main grounds of objection were that:

- 1 the proposed takeaway is contrary to Policy 53 of the Finalised Dundee Local Plan Review as the proposal is adjacent to residential property.
- 2 the proposed takeaway would result in anti-social behaviour from groups of youths hanging around the premises.
- 3 the proposal would result in the loss of a retail unit in the Hilltown.

CONSULTATIONS

The Director of Environmental and Consumer Protection advised that he had no objection in principle to the proposed takeaway on the basis of the stated hours of operation and the cooking equipment to be used. In addition, he requested that a condition should be attached requiring the submission and approval of the details of the proposed fume extraction system and the location of any flues.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

The application property is located within the retail core area of the

Hilltown District Shopping Centre as defined by the Dundee Local Plan 1998. Retailing Policy S17 applies and seeks to resist proposals that would result in the loss of Class 1 retail use or café/restaurant use at street level where it is located within a retail core frontage and will result in the number of shopping units falling below 60% of the total number of units in that frontage and/or will result in more than three consecutive units not in shopping use. The shop unit under consideration is at the end of the retail core area and the respective frontage. If it were to be allowed to change use to a hot food takeaway it would not result in the number of shop units falling below 60% or more than three consecutive units not in a shopping use. The proposal therefore accords with Retailing Policy S17

The proposed takeaway under consideration is for a daytime operation opening between 08.00 to 15.00 hours Monday to Saturday. The equipment to be used within the premises consists of a cooker, toaster, urn and a microwave oven. The property to which the change of use is sought is located within the Hilltown District Shopping Centre. Given the nature of the proposed takeaway it would fall within Leisure and Tourism Policy LT9. As indicated above Policy LT9 allows for small scale hot food premises subject to hours of operation and equipment to be used. It is considered that given the location and nature of the proposed operation it would be in accordance with Leisure and Tourism Policy LT9

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

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

- a Does the proposal accord with Policy 39: District Centre Core Areas of the Finalised Dundee Local Plan Review.

Policy 39 seeks to ensure that within core areas development proposals which would result in the loss of a Class 1 (retail) or restaurant and café uses at ground floor level will not be acceptable where they are located within the retail core and would result in more than 2 in 5 units in

a single frontage being occupied by uses other than shops, restaurants and cafes. The application property is located within the Core Area of the Hilltown District Centre as defined by The Finalised Local Plan Review. If permission were granted for the hot food takeaway it would not result in more than 2 in 5 units in a single frontage being occupied by uses other than shops, restaurants and cafes. The proposal is considered to accord with Policy P39.

- b Does the proposal accord with Policy 53 Licensed and Hot Food Premises outwith the City Centre of the Finalised Dundee Local Plan Review.

This Policy sets out a similar approach to the adopted Local Plan 1998. It allows for hot food carryout premises subject to hours of operation and the equipment to be used. It is considered that given the location of the premises, the proposed hours of operation and equipment to be used it is acceptable in terms of Policy 53 of the Finalised Local Plan 2003.

- c A single letter of objection was received to the proposed hot food takeaway from a resident in the tenement block to the north of the premises. The main grounds of objection are addressed as follows:

- i "the proposed takeaway is contrary to Policy 53 of the Finalised Dundee Local Plan Review as the proposal is adjacent to residential property". As outlined above the proposed takeaway would fall to be considered as a daytime operation with limited hours and equipment. Given this it is considered that it would accord with Policy 53 of the Finalised Dundee Local Plan Review.

- ii "The proposed takeaway would result in anti-social behaviour from groups of youths hanging around the premises". The proposed take-away is to be a daytime operation only with opening hours between

08.00 to 15.00 hours Monday to Saturday. It is considered that it is unlikely that an operation of the nature proposed and only open during the day-time would raise any significant issues in regard to anti-social behaviour.

- iii "The proposal would result in the loss of a retail unit in the Hilltown". There is no existing hot food operation adjacent to the application premises or within the same frontage. It is considered that to approve the current proposals would not result in a significant loss of retail premises in this part of the Hilltown District Centre.

It is concluded from the above that the proposed change of use accords with both Policy 39 and Policy 53 of the Finalised Dundee Local Plan Review. In addition, it is concluded from the foregoing that insufficient weight can be accorded to the grounds of objection such as to justify the refusal of planning permission contrary to the provisions of the development plan.

Design

The application property is located close a prominent corner within the Hilltown District Centre. The reuse of this vacant property will help to assist the visual appearance of the area.

CONCLUSION

It is concluded that the proposed change of use accords with the Retailing and Leisure and Tourism Policies of the Dundee Local Plan 1998 and the policies of the Finalised Dundee Local Plan Review. In addition, it is considered that there are no material considerations that would justify departing from the policies of the development plan in this instance.

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 That details of the fume extraction equipment to be used shall be submitted to the Council for approval prior to the commencement of development and if approved the development shall be carried out only in full accordance with the approved details.
- 3 That the approved fume extraction system shall be used at all times during the operation of the premises as a hot food takeaway and maintained to the manufacturer's standards.
- 4 The use hereby permitted shall not operate between 18:00 to 08:00 hours Monday to Saturday or at any time on Sunday.
- 5 That the position of any external flues shall be agreed with the Council prior to the commencement of development and if approved the proposed development shall be carried out only in full accordance with such approved details.

Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To ensure that the proposed takeaway does not have a detrimental affect on the amenity of neighbour by virtue of smell.
- 3 to ensure that the proposed use does not detrimentally affect the amenity of neighbours by virtue of smell
- 4 To ensure that the proposed development does not detrimentally affect the amenity of adjacent residents
- 5 In the interests of the visual amenity of the area and the amenity of surrounding residents.