

KEY INFORMATION

Ward Douglas

Proposal

Change of use from retail to hot food takeaway

Address

21 Baluniefield Road
Dundee
DD4 8TU

Applicant

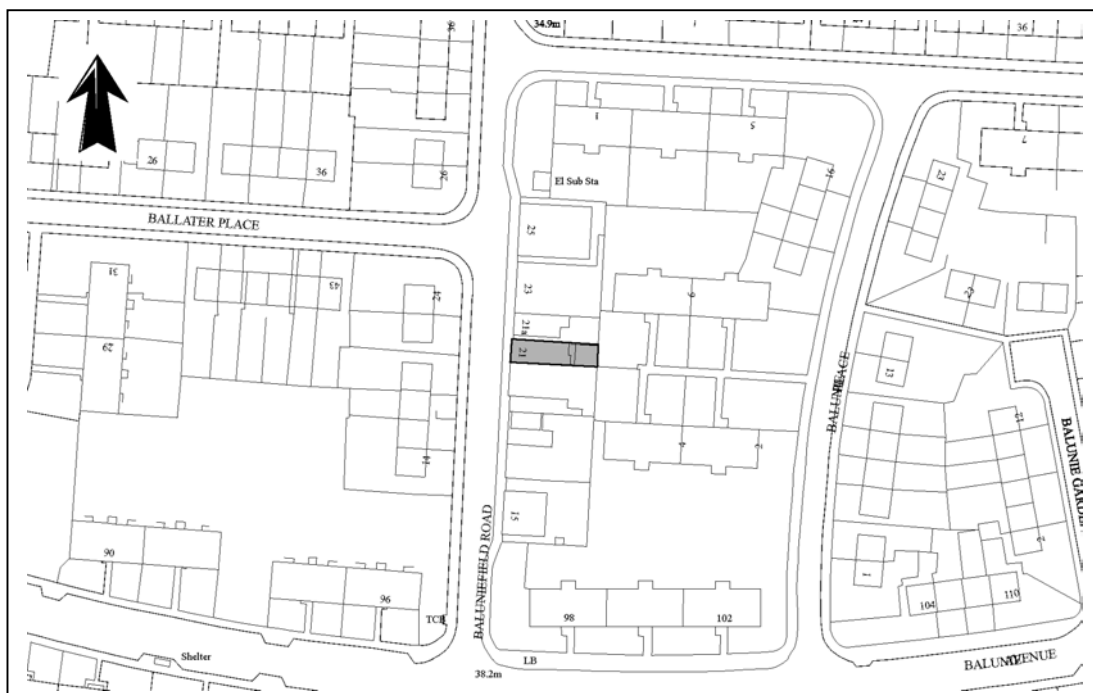
Mr K Lau
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Monifieth

Agent

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Architect
Corridene Leysmill
By Arbroath
Angus

Registered 1 July 2003

Case Officer G Reid



A change of use from retail to hot food takeaway is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed change of use to hot food takeaway is considered to be contrary to the policies of the development plan.

The application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for a change of use from retail to hot food takeaway at 21 Baluniefield Road, Dundee.
- The proposed change of use raises issues for consideration in terms of Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998 and Policy 53 of the Finalised Dundee Local Plan Review.
- Two letters of objection were received to the proposal from residents in Baluniefield Road. One of the letters was signed by three residents. The main grounds of objection were that the proposal would increase existing traffic congestion problems in the street and would exacerbate existing problems relating to litter and anti-social behaviour by youths.
- It is considered that the proposed change of use to hot food takeaway is contrary to Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998 and Policy 53 of the Finalised Dundee Local Plan Review. The concern raised in the letters of objection relating to disturbance from anti-social behaviour is considered to be sufficient to warrant refusal of the application.

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from retail to hot food takeaway at 21 Baluniefield Road, Dundee.

The applicant has indicated that there will be no limitations to hours of operation.

SITE DESCRIPTION

The application site is located on the east side of Baluniefield Road and is to the north of the junction with Balunie Avenue. The application property is a single storey shop unit located within a parade of similar units. The premise is currently vacant as are a number of the other units. There are residential properties on the west side of Baluniefield Road opposite the application property. There are also residential properties to the rear (east) of the application property. There is an existing hot food takeaway within the parade of units.

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:

Leisure and Tourism Policy LT8 advises that no premises selling hot food would be acceptable within 30 metres of existing and proposed housing.

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 53: Licensed and Hot Food Premises outwith the City Centre. This Policy states that in general, outwith District Centres no premises

selling hot food is acceptable within 30 metres of existing or proposed housing.

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 Council policies relevant 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 would not be achieved.

SITE HISTORY

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

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the application was advertised in the "Dundee Courier and Advertiser" on the 8 July 2003 under section 34 of the 1997 Act as a potential bad neighbour development and on the 11 July 2003 as a potential departure to the development plan. Two letters of objection were received to the proposal from residents in Baluniefield Road. One of the letters was signed by three residents. The main grounds of objection were that:

- 1 The proposal would increase existing traffic congestion problems in the street.

- 2 The proposal would exacerbate existing problems relating to litter.
- 3 The proposal would exacerbate existing problems relating to anti-social behaviour by youths.

Copies of the letters of objection are available in the Members' Lounges and the issues raised are addressed in the Observations section of this report.

CONSULTATIONS

The Head of Environmental Health and Consumer Protection advised that subject to appropriate conditions covering noise and odour he would have no objections to the proposed development.

The Police Architectural Liaison Officer advised that there is a high incidence of youth crime and disorder in the area.

No adverse comments were received from any of the other statutory consultees.

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 applicant is seeking planning permission for a change of use from a retail unit to a Hot Food Takeaway. They have indicated that the Hot Food Takeaway would be operated without any restrictions on hours of opening.

Leisure and Tourism Policy LT8 is of relevance and advises that no premises selling hot food would be acceptable within 30 metres of existing and proposed housing. The application property is located within an existing parade of shop units on Baluniefield Road. To the west (front) of the

application property are semi-detached houses and to the east (rear) are flats. There are two semi-detached properties, 4 terraced houses and 4 blocks of flats within 30 metres of the proposed takeaway. There is already a Hot Food Takeaway in the most northern unit of the parade of units.

The proposed use is clearly contrary to the provisions of Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998. The applicants have not provided any supporting evidence that would justify setting aside the provisions of Policy LT8.

It is concluded from the foregoing that the proposal does not comply 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 comply with the provisions of Finalised Dundee Local Plan Review Policy 53: Licensed and Hot Food Premises outwith the City Centre?

This Policy states that in general, outwith District Centres no premises selling hot food is acceptable within 30 metres of existing or proposed housing. This is the same criterion as set out in Policy LT8 of the Dundee Local Plan 1998. Therefore, for the same reasons as set out above it is considered that the proposal is not in accordance with Policy 53 of the Finalised Dundee Local Plan Review.

- b Two letters of objection were received from residents in Baluniefield Road. The following addresses the main concerns raised:

1 "The proposal would increase existing traffic congestion problems in the street". The unit is in an existing parade of shop units several of which area vacant. While the proposal would generate additional traffic it is considered that the effects of this would not warrant refusal of the application.

2 "The proposal would exacerbate existing problems relating to litter". The proposal could result in the

generation of additional litter in the area. If the proposal were to be approved a condition could be attached requiring the provision of litterbins at the shop. Notwithstanding this it is considered that the potential impact from litter would not warrant refusal of the application.

- 3 "The proposal would exacerbate existing problems relating to anti-social behaviour by youths". The proposal could have the potential of increasing anti-social behaviour in an area where the Police Architectural Liaison Officer has advised that there is a high incidence of youth crime and disorder. Given the proximity of the premises to the residential properties any anti-social behaviour would be likely to detrimentally affect the amenity of the residents due to disturbance from noise late at night. Policy LT8 seeks to maintain a separation distance between hot food premises and residential properties to reduce the impact of the potential disturbance on residents. It is considered that the potential anti-social problems could lead to a detrimental affect on residents due to disturbance from noise late at night.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the refusal of planning permission.

Design

The proposal does not include any elevational changes to the façade of the property there are therefore no design issues for consideration.

CONCLUSION

It is considered that the proposed change of use to hot food takeaway is contrary to Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998 and Policy 53 of the Finalised Dundee Local Plan Review. The

concern raised in the letters of objection relating to disturbance from anti-social behaviour is considered to be sufficient to warrant refusal of the application.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reason:

Reason

- 1 The proposed change of use is considered to be contrary to Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998 and Policy 53 of the Finalised Dundee Local Plan Review as there are residential properties within 30 metres whose existing amenity would be detrimentally affected and in particular from disturbance due to noise from antisocial behaviour. There are no material considerations that would justify departing from the policies of the development plan in this instance.