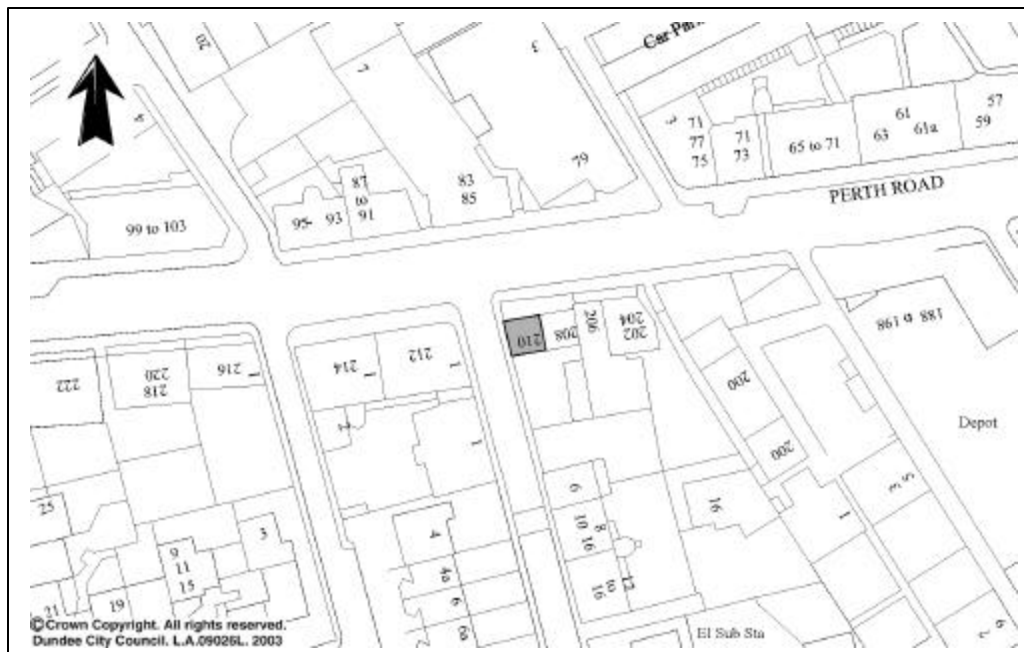


**KEY INFORMATION****Ward** Tay Bridges**Proposal**

Change of use from shop to non-licensed café with access ramp and elevational alterations

**Address**210 Perth Road  
Dundee  
DD1 4JY**Applicant**Mr S Taylor  
88 Market Street  
St Andrews  
Fife  
KY16 9PA**Agent**Leadingham Hynd  
Partnership  
18 South Tay Street  
Dundee  
DD1 1PD**Registered** 1 Dec 2003**Case Officer** Eve Jones

## Proposal for Café in Perth Road

A change of use from a shop to a non-licensed café is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposal does not comply with policies in the Dundee Local Plan and the Finalised Local Plan Review as there is a flat above the site. A non-licensed café is considered to be an acceptable facility in this location subject to detailed conditions to restrict the range of foods, noise etc. It is considered that the material considerations are sufficiently strong to recommend **APPROVAL** subject to conditions.

**SUMMARY OF REPORT**

- Planning permission is sought for the change of use of an existing vacant shop on the south side of Perth Road to an unlicensed café. The provision of an access ramp and external painting of the building is also included in the application.
- The proposed range of foods includes soups, grilled sandwiches and baguettes, salads, vegetarian foods and fresh baked cakes. The applicant proposes limited hot food take away facilities comprising the sale of hot drinks and hot sandwiches. There will be very limited grilling of food and no deep fat frying. The premises is relatively small at 52 square metres. The café will be open 0800 hours to 2300 hours, seven days a week.
- There is a flat immediately above the site and as a result, the proposal fails to comply with Policy LT8 of the Dundee Local Plan and Policy 53 of the Finalised Dundee Local Plan Review. The site does not lie within the identified District Centre. However, Perth Road is a busy route for vehicle and pedestrian traffic throughout the day and the impact on residents may be limited.
- One objection was received from a local company on the grounds that the proposal did not comply with policy but did not expand upon any detrimental impact the development might have.
- The proposal, for a non-licensed facility to operate all day, seeks to provide an alternative to pubs and clubs. The applicant has agreed to conditions to restrict the range of foods and noise controls on music and mechanical services.

## DESCRIPTION OF PROPOSAL

The application proposes the change of use of an existing shop unit to form a café with the formation of an external access ramp and elevational alterations comprising external painting. The café will be 52 square metres, the majority of which will be the seating area with a small kitchen and toilets. The café will not be licensed and will operate from 0800 hrs to 2300 hrs, seven days a week. The proposed range of foods includes soups, grilled sandwiches, salads, vegetarian foods, fresh baked cakes/tarts, sandwiches, rolls and fresh baguettes. No deep fat frying will be carried out on the premises and only bacon and steak will require to be grilled. The ramp will permit disabled access and the external painting is acceptable. Any illuminated signage will require to be the subject of a specific application for advertisement consent.

## SITE DESCRIPTION

The site lies on the south side of Perth Road adjacent to an existing restaurant. To the west there are shop units with flats above. On the north side of Perth Road there is a mix of commercial properties with flats above and immediately opposite lies the converted Ryehill Church which is now in residential use. Perth Road is a busy major distributor road into the City Centre with a wide range of retail and commercial premises which form a busy and varied District Shopping Centre. There are a number of public houses, restaurants, hot food take aways and cafes along the length of Perth Road from the University to the Sinderins junction.

The premises is the ground floor of a two storey with attic traditional stone building with slate roof. The building is set down below the street level and is accessed by steps to the front and side on to a lower terrace area in front of the building behind protective railings. The upper floor of the building is in residential use.

## 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:

Policy LT8 Licensed and Hot Food Premises.

Policy BE11 Development in Conservation Areas.

### Dundee Urban Nature Conservation Subject Local Plan 1995

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



### Finalised Dundee Local Plan Review 2003

The following policies are of relevance:

Policy 53 Licensed and Hot Food Premises outwith the City Centre.

Policy 61 Development in Conservation Areas

### 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

The development complies with Key Theme 7 which requires that access to facilities, services, goods and people is not achieved at the expense of the environment.

## SITE HISTORY

There is no relevant planning history.

## PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a Bad Neighbour development and a development contrary to the Development Plan. There was one objection from a local property management company on the grounds that the development is contrary to the relevant policy in the Local Plan.

## CONSULTATIONS

There were no adverse comments from consultees.

## OBSERVATIONS

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

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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.

Policy LT8 Licensed and Hot Food Premises. The policy restricts the location of hot food premises within 30 metres of existing and proposed

housing if the outlet does not exceed 150 square metres. There is one flat above the application property. The site does not lie within the District Centre although its boundary includes premises on the north side of Perth Road opposite the site. The application does not therefore comply with this policy.

Policy BE11 Development in Conservation Areas.

The policy requires that developments complement and enhance the character of the area. The proposal is for the beneficial use of an existing vacant shop unit and the proposed repainting in white with dark brown window bands, red and maroon signage and maroon railings is considered to complement the character of the building and enhance the area.

However it is concluded from the foregoing that the proposal does not comply with the provisions of the development plan in respect of Policy LT8.

### Other Material Considerations

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

### Finalised Dundee Local Plan Review 2003

Policy 53 Licensed and Hot Food Premises outwith the City Centre. This policy reflects the existing distance restriction in Policy LT8 therefore the flat above application site is within the relevant restricted distance. The policy also allows some degree of relaxation in District Centres or where opening hours can be restricted. The site does not lie within a District Centre and the proposed opening hours are 0800 to 2300hrs. The exceptions do not apply in this case.

The applicant has submitted supporting information as follows.

- 1 A limited take away element is proposed comprising panini, soup, coffee and hot sandwiches.
- 2 The range of cooking equipment is limited to a domestic scale oven with hob and grill, a contact grill to toast sandwiches etc, a soup kettle and an espresso machine.

- 3 The proposed fume extraction system will be ducted through the existing chimney.
- 4 The applicant has indicated that he has no intention to apply for an alcohol or entertainment license as the café will provide an alternative to bars and pubs.
- 5 The majority of the foods to be offered at the proposed café are cold or require limited cooking or heating and are unlikely to result in the production of strong smells.

The premises are relatively small with a floorspace of 52 square metres. The site lies on Perth Road which has heavy vehicle and pedestrian traffic for long periods of the day.

It is considered that the proposed café will not adversely affect the existing amenities enjoyed by the residents of the flat above the application site subject to specific restrictive conditions with regard to the method of cooking and range of foods to be served, the precise details of the proposed mechanical or electrical systems and the provision of musical entertainment.

It will provide an alternative, evening social facility which is not licensed. There is no equivalent café of this sort in the Perth Road. There have been no objections from surrounding neighbours or the West End Community Council. The single objection is on the basis of the failure to comply with the relevant policy in the local plan. There is no further explanation of what the adverse impact of this development would be.

### Design

There will be a minor alteration to the northern elevation by the replacement of a window by a customer door. The building has a functional commercial appearance which will not be significantly altered. It is likely that signage will require an appropriate permission.

### CONCLUSION

It is concluded from the foregoing that the proposed development would provide a welcome additional social facility to the neighbourhood subject to the control of its operation by appropriate conditions. It is

considered that sufficient weight can be accorded to the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan.

### 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 premises shall be used as a non-licensed café in accordance with Class 3 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997. Limited hot food take away facilities shall comprise sale of hot drinks, panini and hot sandwiches.
- 3 The range of foods sold at the premises shall accord with the submitted list as attached to the agent's letter dated 19 January 2004 unless agreed in writing with the City Council.
- 4 Details of all external mechanical and electrical services shall be submitted to the City Council for approval before any development is commenced and if approved the development shall be carried out only in accordance with such approved details.
- 5 All music shall be inaudible within the nearest noise sensitive residential property.
- 6 The hours of operation shall be between the hours of 0800 to 2300 hours on any day.

### Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 The premises are closely adjoined by residential properties and it is considered necessary to strictly control the nature and intensity of the use of the premises in the interests of the amenities of the area.
- 3 The premises are closely adjoined by residential properties

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