

**KEY INFORMATION**

**Ward** Claverhouse

**Proposal**

Change of use from retail  
Outlet to hot food takeaway

**Address**

104 Fintry Road  
Dundee  
DD4 9EZ

**Applicant**

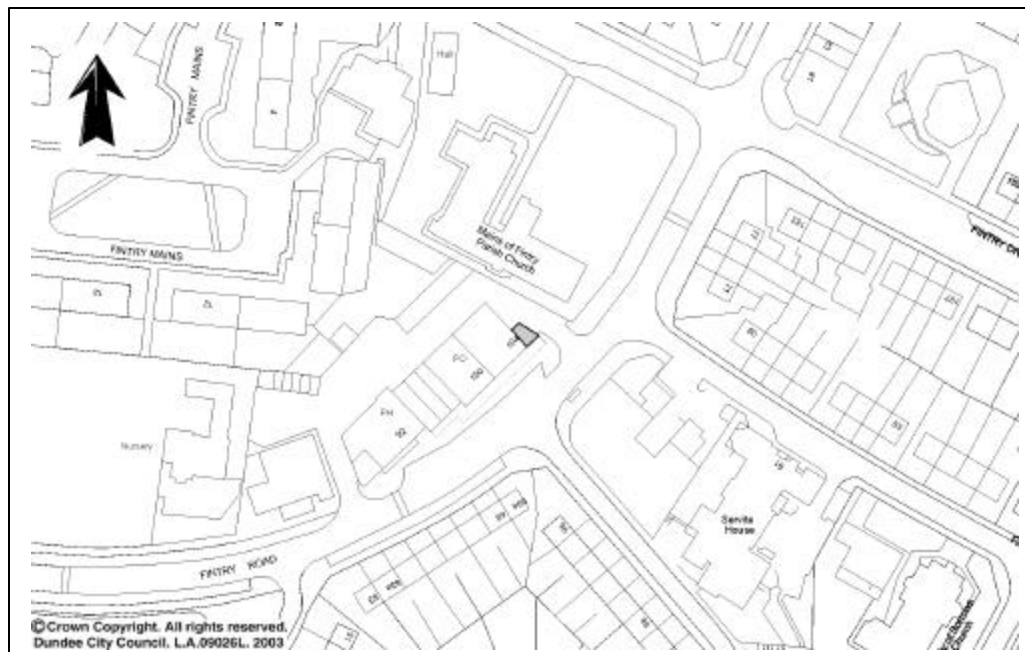
Mr Adress  
104 Fintry Road  
Dundee  
DD4 9EZ

**Agent**

Leadingham Hynd  
Architectural Services  
18 South Tay Street  
Dundee  
DD1 1PD

**Registered** 30 Mar 2004

**Case Officer** J Robertson



## Proposed Hot Food Takeaway in Fintry Road

A change of use from retail outlet to hot food takeaway is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development is considered to be in accordance with the relevant policies in the Dundee Local Plan 1998 and the Finalised Dundee Local Plan Review.

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

**SUMMARY OF REPORT**

- Planning permission is sought for the change in use of a retail outlet to hot food takeaway at 104 Fintry Road.
- Housing Policy H1 and Leisure and Tourism Policy LT8 of Dundee Local Plan 1998 are relevant to this application. Policy 1 and Policy 53 of the Finalised Dundee Local Plan Review are material considerations and reiterate the former policies.
- One letter of objection accompanied by a petition with 26 signatures was received. The main concerns were smell, increased disturbance, increased traffic and increased litter.
- It is considered that the proposed development is in accordance with the Housing and Leisure and Tourism Policies of the Dundee Local Plan 1998 and Policy 53 of the Finalised Dundee Local Plan Review. In addition, it is considered that the material considerations provide insufficient weight to warrant refusal of the application.

## DESCRIPTION OF PROPOSAL

The application is for planning permission for a change of use from a retail outlet to a hot food takeaway at 104 Fintry Road, Dundee. The submitted plans show that the existing glass frontage and position of the door will be maintained. New roller shutters will be fitted to the front and back of the frontage. To the rear of the unit a new door will be formed for the purpose of an emergency exit and for deliveries.

## SITE DESCRIPTION

The application site is located on the northwest side of Fintry Road with Fintry Drive to the northwest. The application property is the north most unit within a local shopping parade. The shopping parade has a service area to the rear and car parking along the front. Opposite the shopping parade is the Fintry Village Green with Mains of Fintry Parish Church located to the north and Skillbase to the northwest. Further north on Fintry Road is another shopping parade, however the predominant use within the area is residential.

## 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 H1 - Existing residential areas

Policy LT8 - Licensed and hot food premises

### 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 1 - Vibrant and Sustainable Communities.

Policy 53 - Licensed and hot food premises

## Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

NPPG 8, Town Centres and Retailing,

Paragraph 83: Restaurants, Pubs, Hot Food Outlets, it may be appropriate for the use to be located in existing shopping areas, account should be taken of traffic noise and nuisance as well as proximity to residential use.

## 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 of relevance and seeks to ensure that access to facilities,



services, goods and people is not achieved at the expense of the environment and are accessible to all. It is considered that the proposed development achieves the aims of this key theme.

## SITE HISTORY

There is no site history of relevance to this application.

## PUBLIC PARTICIPATION

The applicant carried out statutory neighbour notification and the application was advertised in the "Dundee Courier and Advertiser" on 13 April 2004 under Section 34 of the 1997 Act as a potential bad neighbour.

In response one letter of objection was received accompanied with a petition of 26 signatures opposed to the

proposal on the basis of concerns regarding smell, increased disturbance, increased traffic and increase of litter.

Copies of the letter of objection with the petition are available in the Members' Lounges and the concerns raised are addressed in the "Observations" section of the report.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards advised that he had no objections to the application subject to appropriate conditions regarding mechanical and electrical plants and fume extraction.

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 proposal is for the change of use from a retail unit to a hot food premises. One letter of objection plus a petition was received opposing the proposal.

### The Development Plan

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

Leisure and Tourism Policy LT8 - Licensed and hot food premises. The policy advises that no licensed premises or premises selling hot food is acceptable within 30 metres of existing housing. There are no residential properties within 30 metres of the proposed hot food takeaway. The properties surrounding the hot food takeaway are the local church, retail units, Skillbase centre and the village green. It is considered that the hot food premise is a sufficient distance from residents to minimise impact on their residential amenity. The proposal is therefore considered to be in accordance with Policy LT8.

Housing Policy H1 - Existing residential areas. The policy advises that developments would not be permitted where they adversely affect the environmental quality enjoyed by residents by virtue of design, layout, parking and traffic movement, noise and smell. The proposed hot food premises will be in an existing parade of local shops including a bar/restaurant, hot food takeaway, bakery and convenience store. The design and layout of the unit is in keeping with the surrounding units, maintaining the existing frontage to match the adjacent unit. With regards to parking and traffic movement, there is an existing parking area to the front of the shopping parade, which should prove sufficient to deal with customers using the facilities during hours of operation. In terms of traffic movement in relation to the hot food premises, delivery vehicles will be expected to use the service area to the rear of the premises with deliveries through the rear service door, which is to be formed. With regards to potential noise and odour there is no housing within 30 metres that would be adversely affected. However if the application is approved it will be necessary to provide conditions regarding mechanical and electrical plant and fume extraction.

The proposal is considered to be in accordance with Housing Policy H1.

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:

### Finalised Dundee Local Plan Review

Policy 1 - Vibrant and Sustainable Communities. For the reasons set out for Policy H1 it is considered that the proposal complies with Policy 1.

Policy 53 - Licensed and hot food premises outwith the city centre. For the reasons set out for Policy LT8 it is considered that the proposal is in accordance with Policy 53.

### Objections

As previously noted one letter of objection was received accompanied by a petition of 26 signatures, which raised concerns regarding smell, increased disturbance, increased traffic and increase of litter.

In terms of odour the applicant has provided information on appropriate filters which will be used to deal with odour coming from the premises. The Head of Environmental Health and Trading Standards has also recommended that a condition be attached that details of the fume extraction equipment, filters and flue have to be approved prior to development to ensure any potential problems associated with odour are adequately addressed.

With regards to increased disturbance it is considered that due to the location of the proposal within an existing local shopping parade and the presence of an existing takeaway that this is an appropriate location for such a use. It is considered that there will be no significant increase in disturbance over that which exists at present. The existing housing in the area is more than 30 metres from the site, therefore it is not considered that it will result in significant disturbance on the surrounding residents.

In terms of increased traffic it is considered that the existing parking area to the front of the shopping parade provides adequate parking for use of the facility. The service area to rear of the unit provides an adequate space for deliveries.

Concerns were also raised regarding an increase in litter. There is separate legislation to deal with any issues arising relating to litter.

It is concluded from the foregoing that there are no material considerations such as to justify departing from the provisions of the development plan and the proposal is therefore recommended for approval subject to conditions.

## Design

The design of the hot food takeaway is considered to be in keeping with the surrounding area, as the existing frontage will remain the same. In terms of design the unit will have no adverse impact on the surrounding area

## CONCLUSION

As detailed above it is considered that the application is in accordance with Housing and Leisure and Tourism Policies of the Dundee Local Plan 1998 and Policy 1 and Policy 53 of the Finalised Dundee Local Plan Review. It is considered that the concerns raised

by objectors are not of sufficient weight to warrant refusal of the application.

## 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 All mechanical and electrical plant shall not exceed NR35 as measured 1 metre from the façade of any residential property.
- 3 Details of the fume extraction equipment, filters and flue to be used shall be submitted to the Council for approval prior to the commencement of the development and if approved the development shall be carried out only in full accordance with the approved details.
- 4 The hours of operation will be 1600 to 2400 hours from Sunday to Thursday, and 1600 and 0100 hours on Friday and Saturday.

## Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997,
- 2 To ensure any potential noise emanating from the building would not adversely affect the amenities of the occupiers of nearby properties.
- 3 To ensure that any potential issues associated with odour are addressed.
- 4 To ensure that the use of the premises does not result in noise disturbance in the interests of residential amenity.