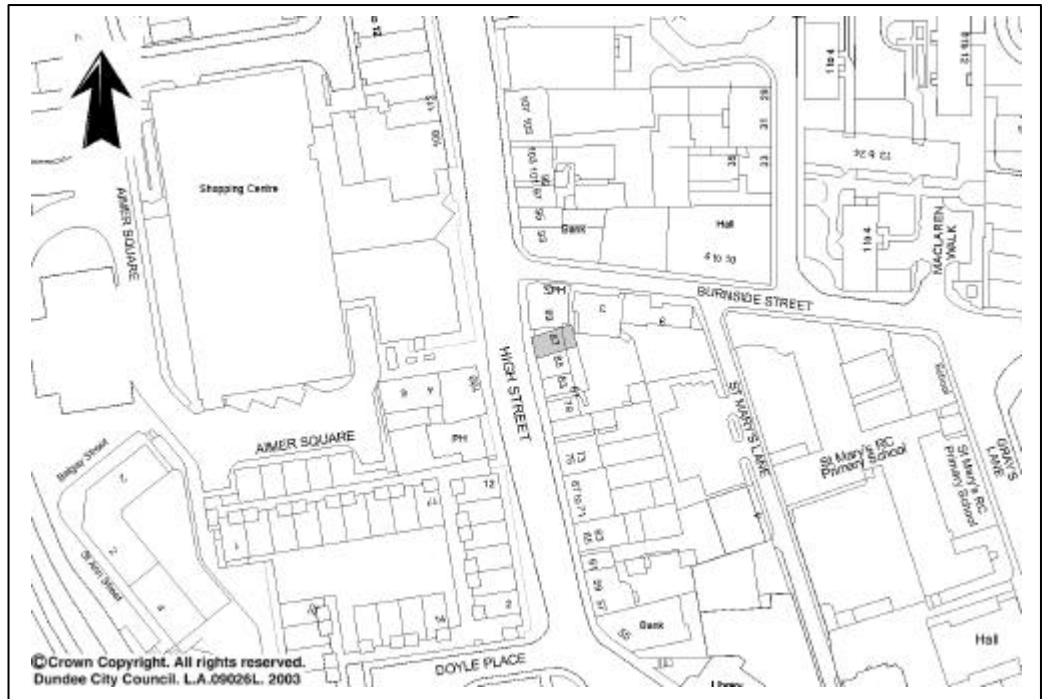


KEY INFORMATION**Ward** Lochee East**Proposal**Change of use from
butcher's shop to hot food
carry out**Address**87 High Street
Lochee
Dundee
DD2 3AT**Applicant**Nethergate Properties Ltd
80 Nethergate
DUNDEE**Agent**Davidson Property Services
49 Yeaman Street
Carnoustie
DD7 7AW**Registered** 10 November
2004**Case Officer** Eve Jones

Proposed Hot Food Takeaway in Lochee High Street

A change of use from a butcher's shop to a hot food carry out is **RECOMMENDED FOR REFUSAL**.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposed change of use fails to comply with Policy LT8 of the Dundee Local Plan and Policy 53 of the Finalised Dundee Local Plan Review. The objections are supported and there are no material considerations of sufficient strength to support the application. Accordingly it is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for the change of use of an existing vacant butchers shop to a hot food carry out. A small room to the rear is shown for preparation and storage and an external odour filter is proposed for the side wall. There is a flat above the site.
- The site lies on the east side of High Street Lochee with a public house to the north and a variety of shops to the south. The site lies within a busy District Shopping centre.
- Policy LT8 of the Dundee Local Plan and Policy 53 of the Finalised Dundee Local Plan Review both contain distance restrictions between hot food take aways and residential properties. The proposal does not comply with the restriction and fails to comply with the policy.
- Five objections have been received from surrounding neighbours on grounds of increase in noise, traffic and disturbance in the evenings, increased smells and litter. The objections are supported.
- The agent has submitted a letter of support on the grounds that the proposal will complement the business community as a whole, provide additional food outlet to give customers wider choice and avoid a vacant shop unit.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of a vacant butchers shop to a hot food carry out. An indicative internal layout proposes a counter along the middle of the shop to separate the waiting area from the cooking area. A small room to the rear is shown for preparation and storage. An external filter on the side wall is proposed to deal with cooking odours.

SITE DESCRIPTION

The site is on the east side of the High Street, close to its junction with Burnside Street. There is a public house to the north and traditional shops to the south. The west side of the High Street has a more modern shopping development. There is a flat above the application property. The site lies within a busy District Shopping Centre with a number of existing hot food take away premises.

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.

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.

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 Access to facilities, services, goods and people is not achieved at the expense of the environment and are accessible to all.



SITE HISTORY

There is no relevant planning history.

PUBLIC PARTICIPATION

The application was advertised as a Bad Neighbour development and also as a development contrary to the Development Plan. Five objections were received from neighbours on grounds of increase in noise, traffic and disturbance in the evenings, increased smells and litter. A supporting letter of justification was received from the applicants agent as detailed in the Observations below. Copies of the letters are available in Members' lounges and the issues raised will be considered in the Observations below.

CONSULTATIONS

There were no adverse comments from consultees. The Head of Environmental Health and Trading Standards seeks a conditions restricting noise impact from mechanical and electrical services to be imposed if the application is recommended for approval.

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 states that no premises selling hot food is acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace. The proposed unit is below this size.

There is a flat immediately above the site. 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:

Finalised Dundee Local Plan Review

Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The policy identifies the same distance criteria between a proposed hot food unit and housing as Policy LT8 above. It also states that within District Centres, some relaxation of these controls may be appropriate. However proposals, other than limited hot food take aways, will not be permitted in premises directly adjoining residential

property which is not within the control of the take away proprietor or operator. Directly adjoining means either directly above or to either side. This proposal cannot take advantage of any relaxation of the criteria set out in the policy.

Objections

Five objections were received from neighbours on grounds of increase in noise, traffic and disturbance in the evenings, increased smells and litter. Hot food take aways do attract custom, both on foot and in vehicles, at later hours after the majority of the shopping centre facilities are closed. The application proposes an externally mounted odour filter system which would require to be installed and maintained in order to control cooking smells. There is no information on the noise which such a system could generate and which could impact on the residential amenity enjoyed by the residents of the upper floor flat. It is considered likely that the local residents would experience increased noise and disturbance and additional litter.

The objections are supported.

The applicant's agent has submitted a supporting letter on the grounds that the proposal will complement the existing business community, provide an additional food outlet which gives customers more choice and avoid a vacant shop unit. The submission is not supported as the proposal fails to comply with the policy which seeks to protect the amenities of residents who are already affected by the existing late night activities in the area.

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 in accordance with the provisions of the development plan.

Design

There are no design issues in respect of this application.

CONCLUSION

The proposed change of use does not comply with the relevant policies in the Dundee Local Plan 1998 or the Finalised Dundee Local Plan Review 2003. The objections are supported. It is therefore recommended that planning permission be refused.

RECOMMENDATION

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

Reason

- 1 The proposed change of use is contrary to Policy LT8 Licensed and Hot Food Premises of the Dundee Local Plan 1998 as the site lies within 30 metres of existing housing and there are no material considerations of sufficient weight to support the granting of planning permission contrary to the policy.
- 2 The proposed change of use is contrary to Policy 53 Licensed and Hot Food Premises Outwith the City Centre of the Finalised Dundee Local Plan 2003 as the site is immediately adjoining existing housing.