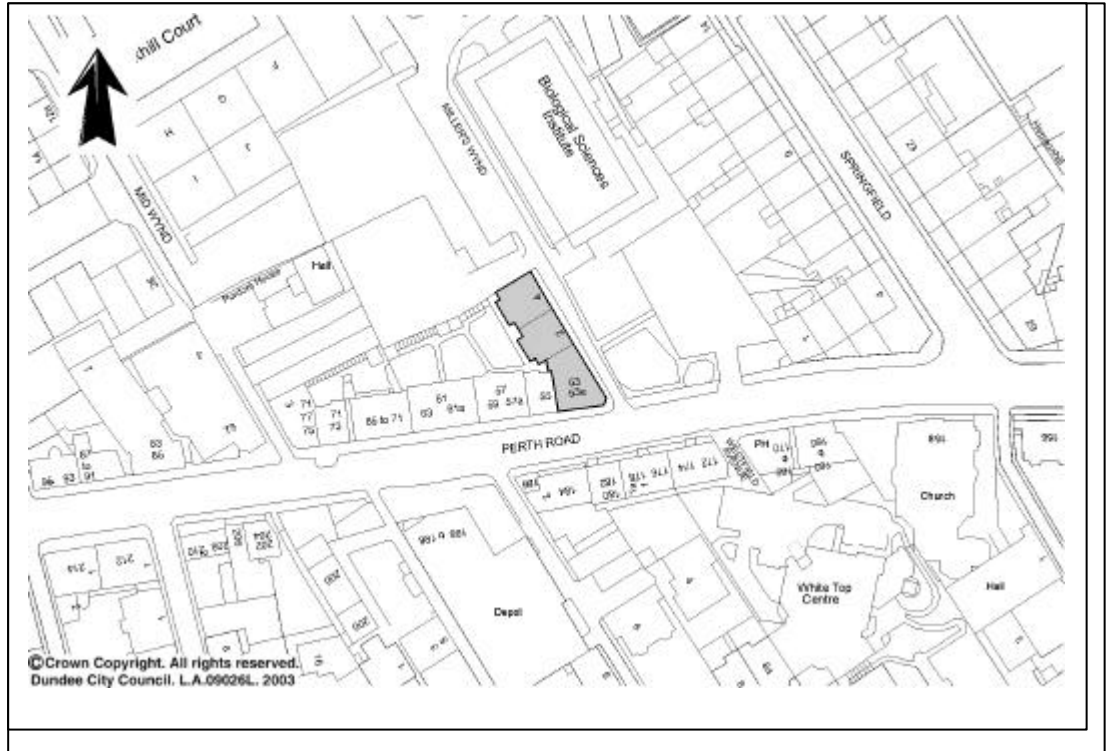


**KEY INFORMATION**

Ward Tay Bridges

**Proposal**

Change of use from retail (wine shop) to cafe

**Address**53 Perth Road  
Dundee  
DD1 4HY**Applicant**Kenneth Taylor  
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DD5 3JJ**Registered** 15 Dec 2004**Case Officer** J Robertson

# Proposal for New Cafe in Perth Road

A Change of use from retail (wine shop) to cafe is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development is considered to contravene certain policies of the development plan but is in accordance with other relevant policies. It is also considered that the material considerations provide sufficient weight to warrant approval of the application.

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

**SUMMARY OF REPORT**

- Planning permission is sought for a change of use from retail (wineshop) to a cafe at 53 Perth Road.
- Policies LT8, S18, H1 and BE11 of the Dundee Local Plan 1998 raise issues for consideration. Policies 1, 40, 53 and 61 of the Finalised Dundee Local Plan Review are material considerations that reiterate the former policies.
- No public representation was received in relation to the proposal.
- It is considered that the proposed development is contrary to Policy LT8 of the Dundee Local Plan 1998. However it is considered to be in accordance with Policies S18, H1 and BE11 of the Dundee Local Plan 1998. It is considered that the material considerations provide sufficient weight to warrant approval of the application contrary to the adopted Local Plan.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from retail premises (wine shop) to a cafe at 53 Perth Road. The cafe will be 202 square metres, the majority of which will be a seating area. However there will also be a small exhibition area as well as kitchen facilities, storage and toilets. The cafe will operate between 0800 hours and 1900 hours. The proposed range of foods includes soups, hot and cold sandwiches, continental breads, baked potatoes, salads, cakes and pastries. No deep fat frying will be carried out on the premises and grilling will only be limited to grilled sandwiches. A limited takeaway facility will be provided consisting of hot and cold drinks and sandwiches. It is intended that the frontage will remain the same however any proposed signage will be the subject of a specific application for advertisement consent.

## SITE DESCRIPTION

The application site is located on the north side of Perth Road with Miller's Wynd to the east. To the east of the site are buildings and facilities associated with the University of Dundee. To the north is light industrial use and to the west and south are a variety of commercial and residential properties. 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. The application site is located within the West End Lanes Conservation Area. The application property is a ground floor corner unit within a traditional 4-storey tenement block. The upper floors of the property are 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:

Housing Policy H1: Existing Residential Areas

Retailing Policy S18: District Centres - Changes of Use

Leisure and Tourism Policy LT8: Licensed and Hot Food Premises

Built Environment 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

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities

Policy 40: District Centres Outwith Core Areas

Policy 53: Licensed and Hot Food Premises

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 key theme of relevance to this application is Key Theme 7, which requires that access to facilities, services, goods and people is not achieved at the expense of the environment. It is considered that the proposal meets the aims of the key theme in this instance.

## SITE HISTORY

There is no site history of relevance in this instance.

## PUBLIC PARTICIPATION

The applicant carried out statutory neighbour notification and the application was advertised in the "Dundee Courier and Advertiser" on 21 December 2004 as a Section 34 Bad Neighbour development and on 29 December 2004 as a departure from the development plan. No public representation was received regarding this proposal.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards had no objections to the proposal, however, a suitable condition is to be attached to the application to deal with potential odour issues and to restrict the type of food and cooking equipment.

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

- 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 proposal is for a change of use from retail to café at 53 Perth Road.

## 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 selling hot food is acceptable within 30 metres of existing housing. Given that there are residential properties immediately above the premises as well as 13 metres to the south the proposal is considered to be contrary to Policy LT8.

Retailing Policy S18 - District Centres - Changes of use. The policy indicates that changes from shopping use in district centres outside retail core frontages will generally be acceptable. The application site is located within the Perth Road District Centre and will provide a use, which compliments existing uses within the area. The proposal is therefore considered to be in accordance with Policy S18.

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 cafe is located within the designated District Centre as identified within the Local Plan. In terms of design the existing frontage is to be retained although any signage will be subject to advertisement consent. In terms of parking and noise, given the existing retail use and its location within the District Centre it is considered that the proposed use will not have a significant adverse affect on surrounding residents. There are free parking facilities within the District Centre, one in particular is within 70 metres of the site. The opening hours of the cafe will be from 0800 hours to 1900 hours, which will restrict any noise generated from the cafe to ensure that it will not be detrimental to adjacent residents. In terms of smell, hot food is restricted to soups, hot rolls, grilled sandwiches and baked potatoes. No deep fat frying is to take place and grilling is restricted to sandwiches. In order to address any potential odour issues a suitable condition can be added should

Members be minded to grant planning permission. It is considered therefore that the proposal is in accordance with Housing Policy H1.

Built Environment Policy BE11 - Development in Conservation Areas. The policy requires that developments complement and enhance the character of the area. The proposal aims to provide a contemporary and cosmopolitan environment for a wide range of clientele including local residents, students, shoppers, the local workforce and visitors. It is considered given the mix of uses within the Perth Road, which provides a popular, and vibrant community, the proposed change of use will provide a positive contribution to the area. It is therefore considered that the proposal is in accordance with Policy BE11.

It is concluded that the proposal contravenes Policy LT8 but complies with Policy S18, H1 and BE11 of the development plan. It is considered that the justification given for compliance with Housing Policy H1 and Built Environment Policy BE11 provides adequate weight in support of the application.

## Other Material Considerations

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

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

Policy 40: District Centres Outwith Core Areas. Proposals outwith core areas, which involve a change from shopping use, will generally be acceptable. As indicated for Policy S18 of the Dundee Local Plan 1998 it is considered that this change of use is acceptable and therefore in accordance with Policy 40.

Policy 53: Licensed and Hot Food Premises outwith the City Centre. This policy reflects the existing distance restriction on Policy LT8. This policy allows some degree of relaxation in District Centres or where opening hours can be restricted. The site lies within the Perth Road District Centre and it is proposed that the opening hours are restricted to 0800 hours to 1900 hours. The exception therefore applies in this instance and the proposal is considered to be in accordance with Policy 53.

Policy 61: Development of Conservation Areas, as indicated for Policy BE11 of the Dundee Local Plan 1998 the proposal is considered to be in accordance with Policy 61.

## Supporting Information

The applicant submitted the following supporting information with regards to the proposed change of use:

- 1 Opening hours will be between 0800 and 1900 hours
- 2 Food on offer will consist of soups, hot and cold filled rolls, sandwiches, grilled sandwiches, continental breads, baked potatoes, salads, cakes and pastries.
- 3 Drinks will be coffee, tea, soft drinks and mineral water.
- 4 Limited take-away facility of hot and cold drinks and sandwiches.
- 5 The range of cooking equipment is limited to a domestic scale oven and grill, microwave oven, contact grills, soup kettle and espresso machine.
- 6 There is to be limited grilling and no deep fat frying
- 7 Space at the rear of the cafe is to be used to exhibit student's work associated with the Art College.

It is considered that the proposed cafe will not adversely affect the existing amenities enjoyed by the neighbouring residents subject to specific restrictive conditions with regards to methods of cooking and range of foods to be served and precise details of the proposed mechanical or electrical systems.

It is concluded from the foregoing that sufficient weight can be accorded to any of the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

## Design

There are no alterations proposed to the frontage of the property and therefore no design issues related to this application. However it is likely that signage will require an appropriate permission.

## CONCLUSION

As detailed above it is considered that the proposal is contrary to Policy LT8 but is in accordance with Policies S18, H1 and BE11 of the Dundee Local Plan 1998. It is considered that sufficient weight can be given to the material considerations to justify granting planning permission contrary to 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 range of foods sold at the premises shall accord to the submitted list attached to the application dated 30 November 2004.
- 3 Details of all external mechanical extract systems 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.
- 4 The equipment referred to in Condition 3 shall be installed in accordance with manufacturers instructions prior to the first operation of the use hereby approved and shall be maintained to the manufacturers recommended standard.
- 5 The hours of operation shall be between 0800 and 1900 hours on any day.

## Reasons

- 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 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.

- 4 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.
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