

KEY INFORMATION

Ward Balgowan

Proposal

Change of use from retail shop to hot food take away with elevational alterations

Address

6-10 Beaully Avenue
Dundee
DD3 0DP

Applicant

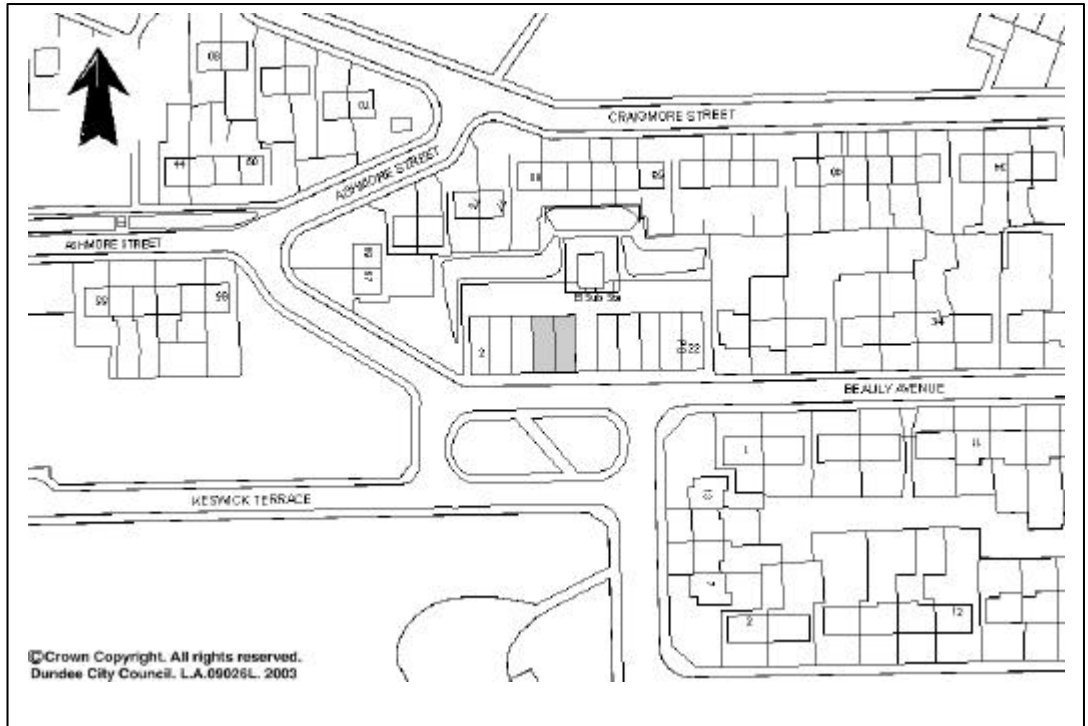
Imsaar Hussain
5 Muirfield Street
DUNDEE
DD3 8PP

Agent

P H Rennie
48 Meadowside
Dundee
DD1 1EF

Registered 11 March
2005

Case Officer Eve Jones



Proposed Hot Food Takeaway in Beaully Avenue

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

RECOMMENDATION

The proposed development fails to meet the policy requirements as the site is 29 metres rather than 30 metres from the nearest house. It is in a group of local shops and is unlikely to have a detrimental impact on nearby residents. There were no objections. Accordingly the application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the change of use of a vacant double shop unit to form a hot food take away. The unit will have a new shop front. The take away is 130 square metres but more than half is used for storage and preparation.
- The site lies within a group of local shops within an established residential area. There are also new houses proposed for land to the north of Keswick Terrace. The nearest house, to the north west, lies at a higher level than the application site. Its garden is 16 metres away and the house is 29 metres away. The shops are in two groups with a rear yard. There is an electricity sub station to the rear of the site.
- The relevant policies in the Dundee Local Plan and the Finalised Dundee Local Plan Review do not support such uses within 30 metres of housing and where the amenities of neighbours would be adversely affected. The application was advertised as a potential Bad Neighbour development and no objections were received.
- The material considerations are the distance from the nearest houses, the level difference between the site and the houses, the existing electricity sub station and the location within a group of local shops where such a use would be expected to be located provided it does not adversely affect the amenities of neighbours.

DESCRIPTION OF PROPOSAL

The application proposes the change of use of two vacant shop units to form a hot food take away. The take away will be 130 square metres half of which will be preparation and storage. A new shop front will be formed in the south elevation. The proposed hours of operation are 1700hrs to 2300hrs. The proposed ventilation outlet shall be on the roof and details of the noise output are provided.

SITE DESCRIPTION

The site lies on the north side of Beaulieu Avenue within the group of local shop units opposite the junction with Keswick Terrace and Ambleside Avenue. The area is an established residential area with new housing proposed on land to the north of Keswick Terrace. The shop is a double unit adjacent to the service lane into the rear yard and is single storey. There is an electricity sub station to the rear of the unit. There is a steep embankment to the rear with houses at a higher level on Craigmore Street/Ashmore Street.

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 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 indicates 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 were no objections.

CONSULTATIONS

The Head of Environmental Services seeks an appropriate condition to limit the potential noise impact of the proposed ventilation equipment on the surrounding residential properties.

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 H1 Existing Residential Areas. The policy supports services and facilities where they do not adversely affect the environmental quality enjoyed by local residents by reason of design, layout, parking and traffic movement issues, noise or smell and they are in accordance with other policies in the plan. It is considered that the proposal will not have a detrimental impact due to the distance between the unit and houses and the location within the local shopping group.

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. The garden of the nearest house to the north west is 16 metres away and the house is 29 metres from the unit. The house is at a higher level than the shop units.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Other Material Considerations

Finalised Dundee Local Plan Review 2003

Policy 1 Vibrant and Sustainable Communities. The policy supports an appropriate range of services and facilities which should be in accordance with other policies in the plan and seek to minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise and smell. It is considered that the proposal will not have a detrimental impact.

Policy 53 Licensed and Hot Food Premises outwith the City Centre. This policy reflects the existing distance restriction in Policy LT8 therefore the nearest house 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 1700hrs to 2300hrs. The exceptions do not apply in this case.

It is considered that the proposal does not fully comply with the policies in the plan.

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

The application was the subject of statutory Neighbour Notification and was also advertised as a potential Bad Neighbour development. There were no objections.

It is considered that the proposed take away will not adversely affect the existing amenities enjoyed by the residents of the nearest house due to the distance between them which almost meets the limits in the relevant policies, taking into account the significant difference in ground levels. The use of an appropriate condition can limit any noise impact.

The site is a vacant double unit within an established small shopping group where such uses would be expected to be located provided the use would not have a detrimental impact on surrounding neighbours. There is an electricity sub station to the rear of the shops which creates background noise. It is concluded from the foregoing 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. It is therefore recommended that planning permission be granted with conditions.

Design

There will be a minor alteration to the southern elevation by the replacement of the shop front. This will improve the appearance of the building. It is likely that signage will require an appropriate permission.

CONCLUSION

It is concluded from the foregoing 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. It is therefore recommended that planning permission be granted with conditions.

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 Total noise from all mechanical and electrical services shall not exceed NR45 during the day and NR35 during the night as measured 1 metre external to the nearest noise sensitive residential property. For the avoidance of doubt, daytime shall be 0700 - 2300 hrs and night time shall be 2300 - 0700 hrs.
- 3 The premises shall only be open to customers between the hours of 1700hrs and 2300hrs on any day.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 to protect the amenity of the area
- 3 to protect the amenity of the area