

KEY INFORMATION

Ward Douglas

Proposal

Change of use from commercial unit to hot food takeaway

Address

21 Baluniefield Road
Dundee
DD4 8TU

Applicant

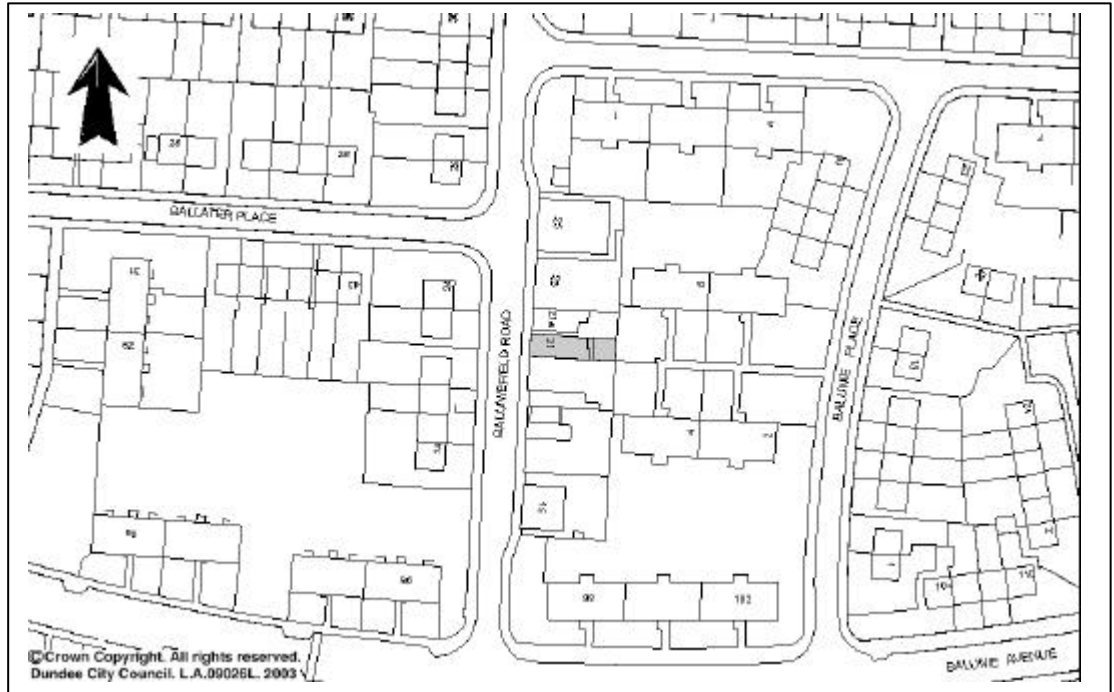
Mr K L Lau
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Agent

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Registered 26 May 2005

Case Officer C Walker



Proposed Hot Food Takeaway in Baluniefield Road

A change of use from a commercial unit to a hot food takeaway is **RECOMMENDED FOR REFUSAL**.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposed change of use to hot food takeaway is contrary to Policy 53 of the Dundee Local Plan Review 2005. The concerns raised in the letters of objection relating to disturbance from noise and anti-social behaviour are considered to be sufficient to warrant **REFUSAL** of the application.

SUMMARY OF REPORT

- Planning permission is sought for a change of use from retail to hot food takeaway at 21 Baluniefield Road, Dundee.
- The proposed change of use raises issues for consideration in terms of Policy 53 of the Dundee Local Plan Review 2005.
- 3 letters of objection were received to the proposal from the occupiers of houses on the opposite side of Baluniefield Road. The main grounds of objection were that the proposal would increase existing noise, litter and anti-social behaviour in the area.
- The proposed change of use to hot food takeaway is contrary to Policy 53 of the Dundee Local Plan Review. The concerns raised in the letters of objection relating to disturbance from noise and anti-social behaviour are considered to be sufficient to warrant refusal of the application.

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from retail to hot food takeaway at 21 Baluniefield Road, Dundee. No elevational alterations to the building are proposed.

SITE DESCRIPTION

The application site is located on the east side of Baluniefield Road and is to the north of the junction with Balunie Avenue. The application property is a single storey shop unit located within a parade of similar units. The premises are currently vacant as are a number of the other units. There are residential properties on the west side of Baluniefield Road opposite the application property. There are also residential properties to the rear (east) of the application property. There is an existing hot food takeaway further to the north within the parade of units.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan Review 2005

Policy 53: Licensed and Hot Food Premises outwith the City Centre. This Policy states that in general, outwith District Centres no premises selling hot food is acceptable within 30 metres of existing or proposed housing.

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 is relevant and seeks that access to facilities, services, goods and people is not achieved at the expense

of the environment and are accessible to all. Given the location and nature of the proposed operation it is considered that Key Theme 7 would not be achieved.



SITE HISTORY

This is the third application for a hot food takeaway at this site within the last 2 years. An application for planning permission by the same applicant for a hot food takeaway at this site was refused in August 2003 - application ref no 03/00534/COU refers and a further application was withdrawn in February 2005 - application ref no 04/01066/COU refers.

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the application was advertised as a bad neighbour development and as a departure from the development plan. 3 letters of objection were received to the proposal from the occupiers of dwellings on the opposite side of Baluniefield Road. A fourth objection based on business competition was received but was not taken into account as it does not relate to a matter that can be validly considered in the processing of this planning application.

The valid objections from neighbours refer to the existing takeaway premises on the parade which recently closed and say that it caused problems of anti social behaviour, noise and litter and they are concerned that these problems will re-emerge if planning permission is granted for this proposal. Concerns about smell and obstruction of driveways have also been raised.

Copies of these letters are available in the Members' Lounges and the issues

raised are addressed in the Observations section of this report.

CONSULTATIONS

The Head of Environmental Health and Consumer Protection advised that subject to appropriate conditions covering noise and odour he would have no objections to the proposed development.

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.

The applicant is seeking planning permission for a change of use from a retail unit to a Hot Food Takeaway. Policy 53 of the adopted Local Plan is of relevance and advises that no premises selling hot food would be acceptable within 30 metres of existing and proposed housing. The application property is located within an existing parade of shop units on Baluniefield Road. To the west (front) of the application property are semi-detached houses and to the east (rear) are flats. There are two semi-detached properties, 4 terraced houses and 4 blocks of flats within 30 metres of the proposed takeaway. There is already a Hot Food Takeaway in the most northern unit of the parade of units.

The proposed use is clearly contrary to the provisions of Policy 53 of the Dundee Local Plan Review 2005. The applicants have not provided any supporting evidence that would justify setting aside the provisions of Policy 53.

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 the 3 letters of objection which were received from the occupiers of houses on the opposite side of Baluniefield Road. The objectors refer to the existing takeaway premises on the parade and are concerned about noise from customers, cars and delivery vehicles, anti social behaviour from groups congregating at the premises, odour and litter problems. These concerns can be addressed as follows:

Noise and Anti social behaviour: Given the proximity of the premises to the residential properties, any noise from customers or vehicles and any anti-social behaviour would be likely to detrimentally affect the amenity of the residents particularly late at night. Policy 53 seeks to maintain a separation distance between hot food premises and residential properties to reduce the impact of the potential disturbance on residents. It is considered that noise and potential anti-social problems could lead to a detrimental affect on residents due to disturbance from noise late at night.

Litter: The proposal could result in the generation of additional litter in the area. If the proposal were to be approved a condition could be attached requiring the provision of litterbins at the shop. Notwithstanding this it is considered that the potential impact from litter would not warrant refusal of the application.

Odour: Subject to the imposition of a planning condition, appropriate arrangements could be made for the control of cooking smells and it is considered that any potential impact from cooking smells would not warrant refusal of the application.

It is concluded from the foregoing that the material considerations weigh against the grant of planning permission.

Design

The proposal does not include any elevational changes to the façade of the property there are therefore no design issues for consideration.

CONCLUSION

The proposed change of use to hot food takeaway is contrary to Policy 53 of the Dundee Local Plan Review

2005. The concerns raised in the letters of objection relating to disturbance from noise and anti-social behaviour are considered to be sufficient to warrant refusal of the application.

RECOMMENDATION

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

Reason

- 1 The proposed change of use is contrary to Policy 53 of the Dundee Local Plan Review 2005 as there are residential properties within 30 metres whose existing amenity would be detrimentally affected and in particular from disturbance due to noise and anti social behaviour. There are no material considerations that would justify departing from the policies of the development plan in this instance.