

KEY INFORMATION

Ward Stobswell

Proposal

Change of use from retail premises to hot food takeaway

Address

100 Albert Street
Dundee
DD4 6QN

Applicant

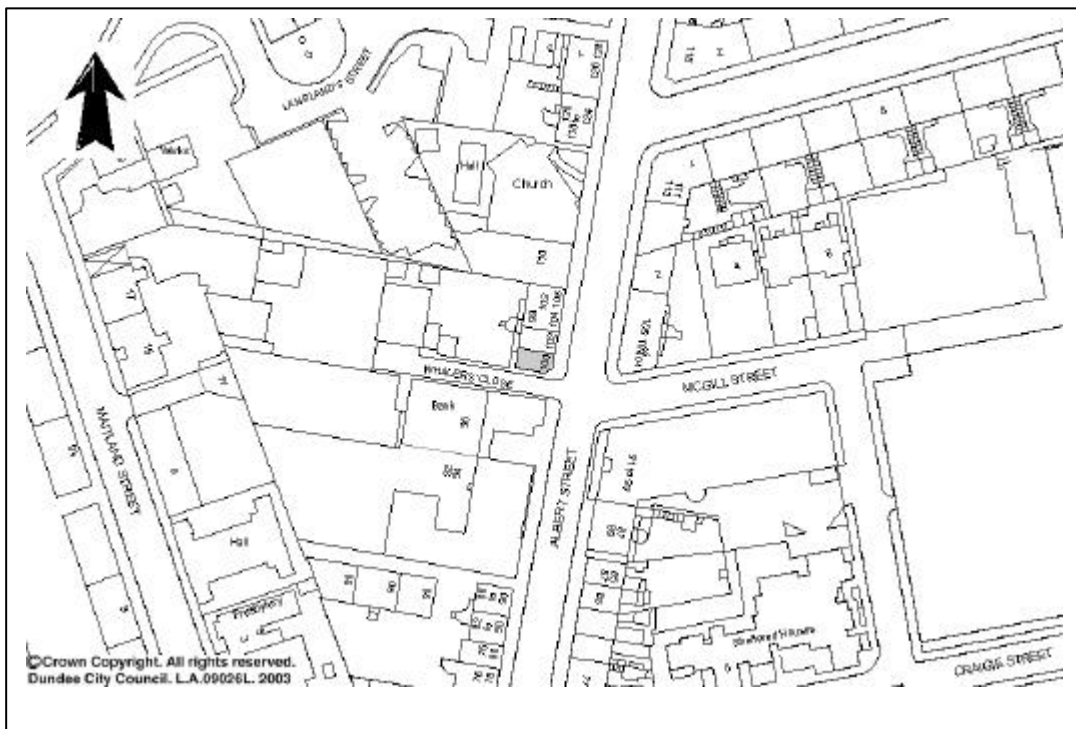
Tow Chaim
243 Clepington Road
Dundee
DD1 7UE

Agent

P H Rennie
48 Meadowside
Dundee
DD1 1EF

Registered 27 April 2005

Case Officer J Young



Proposed Hot Food Takeaway in Albert Street

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

RECOMMENDATION

The proposed development is contrary to Policies H1 and LT8 of the Dundee Local Plan 1998 and Policies 1 and 53 of the Finalised Dundee Local Plan Review. The objections are supported and there are no material considerations that justify approval of the application in these circumstances. The application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for change of use from vacant retail unit to hot food takeaway at 100 Albert Street. The applicant has specified the proposed hours of opening to be 1600 to 2300 daily.
- Policy LT8 does not support hot food takeaways that are within 30m of existing residential properties. The application was advertised as contrary to this Policy. Policy 53 of the Finalised Dundee Local Plan Review states that within District Centres the distance requirement from housing can be relaxed. However they will not be permitted in premises directly adjoining residential property which is not within the control of the takeaway proprietor.
- One letter of objection was received from an adjoining flat owner. The main points of objection relate to the potential adverse impact on residential amenity due to noise and smell, the adverse visual impact of the ventilation flue on the property and surrounding area and traffic and access problems. The objections are supported in these circumstances.

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from retail to a hot food takeaway at 100 Albert Street, Dundee. The proposed opening hours are 16:00 to 23:00 daily. The proposal includes the installation of an external grille on the south elevation of the existing building, which will expel fumes from a specialist internal filter system.

SITE DESCRIPTION

The application site is located on the west side of Albert Street with Whalers' Close to the south. The application property is a vacant retail unit on the ground floor of a traditional 4-storey tenement block. The tenement is finished in traditional stone with a slate roof. The upper floors of the property are in residential use. There are various retail units to the north and south. There are other hot food takeaways along Albert Street but none in the immediate vicinity of the proposal site.

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 area.

Leisure and Tourism 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 38: District Centres.

Policy 53: Licensed and Hot Food Premises

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no policies 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 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.

SITE HISTORY

93/18551/D - Change of use from vacant shop to design and print studio at 100 Albert Street, Dundee was approved with conditions on 05/08/1993.

04/00950/COU - Change of use to hot food takeaway with external flue on rear of tenement building - this application was proceeding to Committee with a recommendation for refusal and was withdrawn on 24.01.2005.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the application was advertised in the "Dundee Courier and

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Advertiser" on 10 May 2005 under Section 34 of the 1997 Act as a potential bad neighbour and on 16 May 2005 as a departure from the Development Plan.

One letter of objection was received from owners of a residential property above. The objections raised issues of concern regarding the proposed ventilation flue and its adverse impact on the visual amenity of the building, residential amenity due to noise, smell and litter; traffic and access issues.

Copies of this letter are available for inspection in the Members Lounges and points raised are considered in the Observations section of this Report.

CONSULTATIONS

No adverse comments were received from statutory consultees. The Head of Environmental Health and Trading Standards supports the proposed ventilation system as it will not directly affect residents above the premises. He indicates that there will be some odour in the surrounding environment but will not reach a level sufficient to be regarded as a "statutory nuisance" as defined in the Environmental Protection Act 1990. In relation to noise, he specifies that there is potential for the ventilation of the shop to cause some noise problems but an appropriate condition to restrict noise from any equipment will alleviate any concerns.

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 of the Adopted Local Plan does not support hot food takeaways within 30m of residential properties. In this case, there are flats above the

proposed takeaway and it is considered that their amenity will be adversely affected due to noise from the premises and potential litter problems.

Policy H1 applies as there are residential flats above the premises and in the surrounding area. The proposed development is likely to increase noise, due to late opening hours, and litter and therefore adversely affecting the amenity enjoyed by residents. Therefore the proposal is considered to contravene this Policy.

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

Policies 53 and 1 as outlined in the "Policy Background" section above specify similar distance and residential amenity criteria to the policies in the Dundee Local Plan 1998. Policy 53 adds that within District Centres this distance requirement can be relaxed but hot food takeaways will not be acceptable where they directly adjoin residential property. Therefore the proposal does not comply with Policy 53. Policy 1 is similar to Policy H1 of the Dundee Local Plan 1998 and the proposal is contrary to this Policy for the same reasons as outlined above.

Policy 38 indicates that the Council will encourage new retail and other shopping developments which would contribute to the vitality and viability of the District Centres. It is considered that a hot food takeaway is complementary to shopping use and would be an acceptable use within a District Centre.

Objections

The objections relate mainly to the adverse visual impact of the ventilation flue on the appearance of the building, the adverse effect on residential amenity due to noise, smell and litter and traffic and access issues. The proposed ventilation has been discussed in detail above and it is considered acceptable that it will be dealt with internally and a grille installed on the south gable wall. The amenity issues such as noise and litter

have been discussed above and they are supported in these circumstances.

It is concluded from the foregoing that insufficient 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 refused.

Design

No external alterations are proposed to the premises at this stage apart from the insertion of a grille into the south gable wall which is considered acceptable.

CONCLUSION

The proposed development is contrary to the relevant policies in the Dundee Local Plan 1998 and the Finalised Dundee Local Plan Review. There are no material considerations that outweigh the development plan and the objections are supported in these circumstances. Therefore the application is recommended for REFUSAL.

RECOMMENDATION

It is recommended that planning permission be GRANTED subject to the following conditions:-

Reasons

- 1 The proposed development 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 residential properties and there are no material considerations of sufficient strength to justify the granting of planning permission contrary to that policy.
- 2 The proposed development is contrary to Policy H1: Existing Residential Areas of the Dundee Local Plan 1998 as the development is likely to adversely affect the environmental quality enjoyed by local residents by reason of increased noise due to the late hours of operation and potential litter problems and there are no material considerations of sufficient strength to justify the

granting of planning permission contrary to that policy.

- 3 The proposed development is contrary to Policy 53: Licensed and Hot Food Premises Outwith the City Centre of the Finalised Dundee Local Plan Review as the site immediately adjoins existing residential properties and is likely to cause potential future problems for residents in terms of noise due to late opening hours and litter problems.
- 4 The proposed development is contrary to Policy 1: Vibrant and Sustainable Communities of the Finalised Dundee Local Plan Review as the development is likely to adversely affect the environmental quality enjoyed by local residents by reason of increased noise due to late opening hours and litter problems.