

KEY INFORMATION**Ward** Pitkerro**Proposal**

Erection of 2 semi-detached houses. Change of use from shop to flat and change of use from public house to restaurant and take away

Address

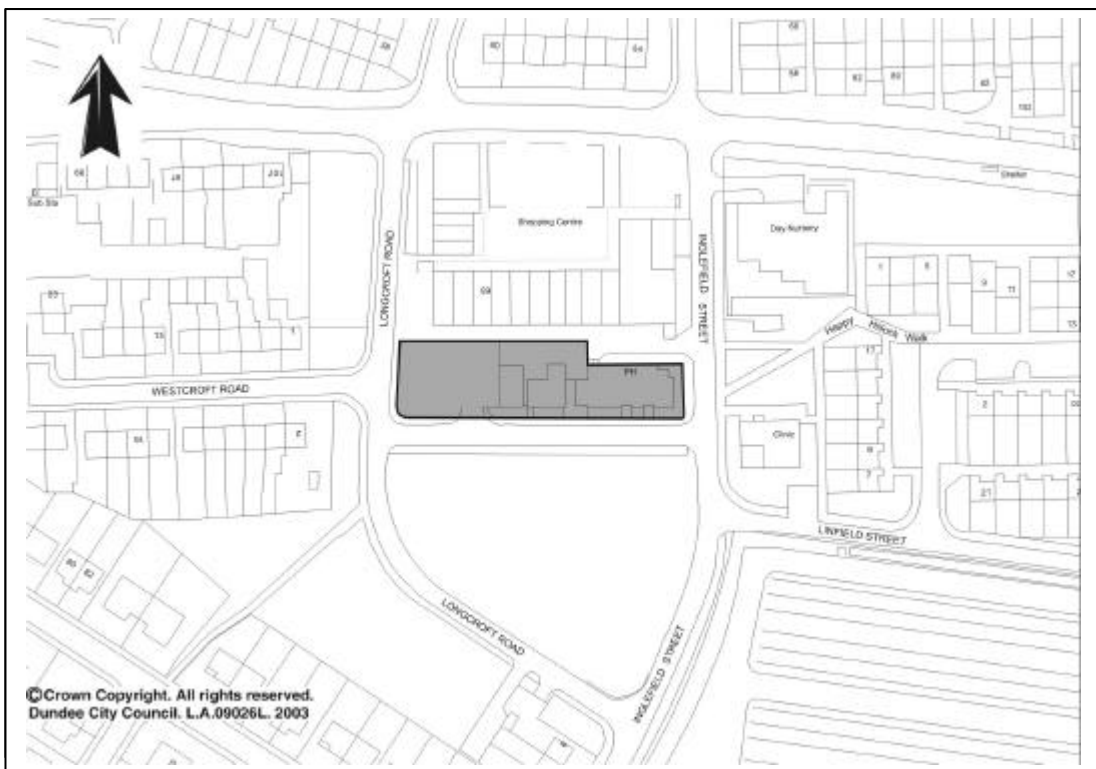
1 and 4 Linfield Street
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Applicant

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Agent

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Registered 16 May 2006**Case Officer** C Walker

Proposed Mixed Use Development in Linfield Street

The erection of 2 semi-detached houses, change of use from shop to flat and change of use from public house to restaurant and take away is **RECOMMENDED FOR APPROVAL subject to conditions.**
Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development will significantly improve the environmental quality of the local area and there are material considerations that justify a departure from the Local Plan in this instance. The application is therefore recommended for Approval subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought to convert a vacant public house to a restaurant and takeaway, to change the use of a ground floor shop to a flat and to erect 2 new houses on the site.
- Policy 4 of the Local Plan contains a presumption against flats. Policy 53 contains a presumption against licensed and hot food premises of this size within 45 metres of housing.
- A letter of objection was received from the owner of a shop unit at the nearby shopping centre who is concerned that the development will encroach on the service road to the rear of the site.
- Taking into account the minor scale of the proposal, the fact that a conversion is involved and that adequate garden ground and parking is provided and finally that the proposal is part of an overall development that will enhance the environment of the wider area, it is considered that there is a justification for approving a single new flat on the site. It is considered that it would be appropriate to support a restaurant/takeaway conversion at this location where the existing public house use would be more intrusive in terms of residential amenity.
- The development will not result in any restriction of the service road to the rear of the site.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of a vacant public house at the eastern end of the site to a restaurant and takeaway, to change the use of a ground floor shop in the centre of the site to a flat and to erect 2 new houses at the western end of the site.

The proposed change of use of the former pub to a restaurant and takeaway involves minor elevational alterations, principally to form a much more open glazed frontage to the southern elevation. The proposed restaurant, with 58 seats, would occupy most of the building with a small takeaway facility at the south eastern corner.

The conversion of the ground floor shop unit (there is a maisonette above) would involve the formation of windows on the west elevation. A garden area of 105 sq. metres and 2 parking spaces are proposed to serve both units.

The proposed 2 new houses comprise a pair of semi detached two storey units, each with 3 bedrooms, a parking space to the side and private rear gardens of 120 and 135 sq. metres respectively. Proposed finishing materials are brick and roughcast walls and tiled roofs.

SITE DESCRIPTION

The site comprises some 1,580 sq. metres of ground on the north side of Linfield Street between its junctions with Longcroft Road and Inglefield Street. To the north is the rear of the Happyhillock Shopping Centre, separated from the site by an unmade private road which is a service access. To the west is terraced housing on Westcroft Road. To the south is an area of public open space and then more recently constructed housing at Longcroft Road. To the east is a clinic and day nursery on the east side of Inglefield Street. Inglefield Street is closed to vehicular traffic just to the north of the application site.

The buildings on the application site comprise the vacant public house, a large single storey building with painted rendered walls, a pair of single storey flat roofed shop units and an electricity sub station to the rear

(unaffected by the proposed development), a 2 and a half storey building containing a ground floor shop unit and a maisonette on the upper levels and finally an area of ground partly fenced off as garden ground for the maisonette and the remainder is vacant and occasionally used for parking.



POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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



Dundee Local Plan 2005

The following policies are of relevance:

The site is not allocated for any specific purpose in the adopted Local Plan but Policy 1 is generally applicable. This states that the City Council will promote vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New development 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 or smell.

Policy 4 and Appendix 1 set out standards for new housing development. In a suburban area such as this there is a presumption against flats.

Policy 53 relates to licensed and hot food premises and states that in general, outwith the District Centres, no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food is acceptable:

- a within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace (excluding cellar space) and;
- b within 45 metres if the 150 square metre figure is exceeded.

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 redevelopment of existing buildings on this brownfield site well served by public transport is considered to be sustainable and in accordance with the Councils Agenda 21 Policies.

SITE HISTORY

There is no relevant history of planning applications.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposal was advertised as contravening Policies 4 (presumption against flats) and 53 (Licensed and Hot Food Premises) of the adopted Local Plan.

A letter of objection was received from the owner of a shop unit at the nearby shopping centre who is concerned that the 2 parking spaces serving the existing maisonette and proposed flat

will encroach on the service road to the rear of the site which is owned by all the shopkeepers and used to make deliveries to the shops.

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

CONSULTATIONS

No adverse comments on the development were received from Statutory Consultees.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b 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.

In terms of Policy 1, the range of uses proposed are entirely appropriate for a residential area and particularly a location such as this where the site is mainly in commercial use and any amenity issues are likely to be ameliorated by the removal of the public house.

In terms of Policy 4, the proposed flat and new houses comply with the requirements of Appendix 1 in terms of unit size, garden ground and parking provision but the presumption against flats is contravened.

In terms of Policy 53, there is a presumption against the proposed restaurant and takeaway because they are within 45 metres of the existing maisonette and well as the proposed flat and 2 new houses all on the application 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:

- a Presumption against Flats (Policy 4)

In this case only 1 flat is proposed and this is to be achieved through the conversion of an existing ground floor shop unit beneath a maisonette. Both units will be provided with adequate garden ground and parking. The demand for shop units at this location is not high and the alternative to residential use is probably a vacant unit. The merging of this ground floor unit with the upper floor maisonette is possible but would create a very large unit which is unlikely to be unmarketable at this location.

Taking into account the minor scale of the proposal, the fact that a conversion is involved and that adequate garden ground and parking is provided and finally that the proposal is part of an overall development that will enhance the environment of the wider area, it is considered that there is a justification for approving a single new flat on the site.

- b Licensed and Hot Food Premises (Policy 53)

Policy 53 contains a presumption against the provision of a restaurant/takeaway of this size within 45 metres of dwellings. The policy does not specifically address a situation such as this where the existing use is already a public house which has residential amenity issues associated with it which are often more problematic than the proposed use. In addition the only 4 dwellings which will be within the prescribed amenity distance are within the application site. It is considered that it would be absurd to oppose a restaurant/takeaway conversion at this location where the existing public house use would be more intrusive in terms of residential amenity and that this fact provides a justification for approving the development despite the terms of Policy 53 of the Plan.

- c Letter of Objection

The objector is concerned that the 2 parking spaces serving the existing maisonette and proposed flat will encroach on the service road to the rear of the site which is owned by all the shopkeepers and used to make deliveries to the shops.

The proposed parking spaces are indicated as falling within land in the sole ownership of the applicant and most of this land is currently enclosed as part of the garden ground of the maisonette. Any dispute over the ownership of this ground is not relevant to the determination of this application. In any event the parking spaces are at a location where the road widens from 4.5 to 10.5 metres and could not under any circumstances result in a restriction of the service road.

It is concluded from the foregoing that sufficient weight can be accorded to material planning 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

At present the site has an unsatisfactory visual appearance and this is mainly due to the poor condition of the open ground at the western end of the site which has been the subject of some tipping in the past and the blank facades of the public house. The proposed development will substantially improve this situation by redeveloping the vacant ground and completely opening up the south elevation of the public house building to form the restaurant and takeaway. The design of the remainder of the development is also satisfactory.

CONCLUSION

The proposed development will significantly improve the environmental quality of the local area and there are material considerations that justify a departure from the Local Plan in this instance.

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 Samples of the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples.
- 3 The restaurant and hot food takeaway premises shall not be open to the public before 7am and after 11pm on any day.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 to ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 3 In order to protect the amenities of the occupiers of nearby dwellings.