

KEY INFORMATION

Ward Claverhouse

Proposal

Change of use from vacant store to hot food takeaway

Address

78-88 Fintry Road
Dundee
DD4 9EG

Applicant

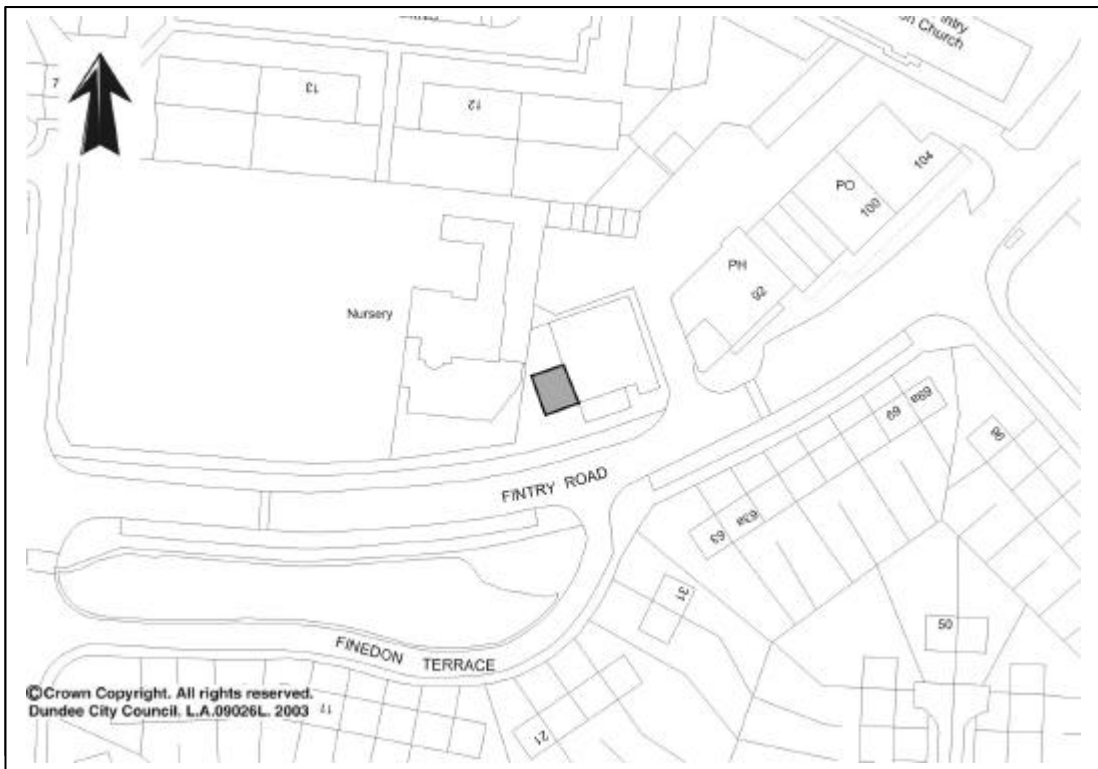
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Registered 30 May 2006

Case Officer S Johnson



Hot Food Takeaway Proposal in Fintry Road

The change of use from a vacant store to hot a food takeaway is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development is considered to contravene Policy 53 of the Dundee Local Plan Review 2005 but it is in accordance with other relevant policies. It is considered that material considerations provide sufficient weight to warrant approval of the application. Therefore the application is recommended for **APPROVAL**.

SUMMARY OF REPORT

- Planning permission is sought for the change of use from a vacant storage area to a hot food takeaway.
- One individual letter of objection and seven letters containing identical text from surrounding neighbours were received on the grounds of increased noise, late night traffic, associated litter and an excess of hot food takeaways in the area.
- Policies 1 and 53 of the Dundee Local Plan Review 2005 are relevant to the determination of the application as these policies seek to protect the amenity of neighbouring residents and the amenity of the area.
- It is considered that the proposal does not comply with Policy 53 of the Dundee Local Plan Review 2005. However, it is considered that the proposal accords with Policy 1 and the material considerations provide sufficient weight to warrant approval of this application contrary to the provisions of the development plan.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use from a vacant storage area which is attached to a retail unit to a hot food takeaway. The floor area will be approximately 40sqm. The only proposed elevational alterations are at the main entrance which will be situated on the west elevation where it is proposed to replace the upper panels above the doorway with a fascia sign. On the south elevation it is proposed to install a new sign indicating the location of the hot food takeaway.

SITE DESCRIPTION

The site is a vacant storage area which is attached to a Class 1 retail unit. It is the end unit within a parade of mixed use units which include the following; a public house, hot food takeaway, barbers and bakers. To the west of the site is a large nursery school. Immediately to the east is vehicular access to an uncontrolled parking area to the rear of the other units. To the south of the site are two storey terraced residential properties.

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

The following policies are of relevance:

Policy 1 Vibrant and Sustainable Communities seeks to safeguard the amenity of residential areas in terms of design as well as layout, parking and traffic movement, and noise and smell.

Policy 53 Licensed and Hot Food Premises outwith the City Centre restricts hot food premises locating within 30metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace.

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 the proposed development achieves the aims of this key theme.

SITE HISTORY

There is no site history of direct relevance to the determination of this application.



Proposed Front (West) Elevation

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and one individual letter of objection was received from a neighbour and seven letters with identical text were received from surrounding neighbours. The application was advertised as contrary to the development plan and as a bad neighbour development. The valid grounds of objection are:

There will be an increase level of noise if this takeaway is open during unsocial hours.

Increased late night traffic.

There are enough shops selling hot food.

There will be an increase in associated litter.

Copies of the objections are available for inspection in the Members Lounges and the issues are discussed in the "observations" section below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards was consulted and as there are no residential properties immediately adjoining the proposed unit there are no real concerns other than a) restricting the noise from mechanical and electrical plant which if consent is granted would be controlled by condition and b) ensuring that details of the fume extraction equipment and filtration system will be as stated in the correspondence received on 21 July 2006.

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.

One of the main issues for consideration is the proximity of residential properties. Policy 1 Vibrant and Sustainable Communities seeks to safeguard the amenity of residential areas.

The application site has residential properties to the south. The closest residential property is approximately 25metres away from the curtilage of the site to the curtilage of the dwelling. It is approximately 32metres from the actual proposed building to the nearest dwelling. There are no residential properties on the upper levels of the shopping parade. As there is housing within 30 metres of the hot food outlet, this proposal is contrary to Policy 53.

The proposed hot food premises will be in an existing parade of local shops including a public house, hot food takeaway, bakery and convenience store.

With regards to potential noise and odour there is residential properties within 30 metres of the premises, the nearest is approximately 25 metres in

distance but is separated by a main road. It is therefore considered that the takeaway is unlikely to have a detrimental affect on the residential amenity of the existing residential properties. It should be noted that there are already existing hot food takeaways within the shopping parade and it is considered that this is a suitable location for the proposed development. If the application is approved it will be necessary to provide conditions regarding mechanical and electrical plant and fume extraction to reduce potential impact on surrounding residential properties. Notwithstanding this it is considered that the proposal is in accordance with Policy 1.

The applicants were requested to provide additional details regarding hours of opening; method of heating food and the type and location of the proposed ventilation system. The following information was provided: The hours of opening will be from 12am to 11.30pm daily. The main cooking area will be a five burner commercial sized gas cooker with two ovens below. There will also be a commercial sized microwave. An extract canopy will be placed above the food preparation area and this will be extracted through the roof. This will not be visible externally. A condition will be attached to ensure that details of the fume extraction equipment and filtration system used will be as stated in the correspondence received on 21 July 2006.

In terms of parking and service access, there is a designated parking area to the front of the retail units, the development site has unlimited parking to the rear and there is additional parking to the rear of the other units. Consequently, there are no concerns regarding customer parking or servicing for this unit.

With regards to increased disturbance it is considered that due to the location of the proposal within an existing local shopping parade and the presence of an existing takeaway that this is an appropriate location for such a use. It is considered that there will be no significant increase in disturbance over that which exists at present.

Concerns were also raised regarding an increase in litter. There is separate legislation to deal with any issues arising relating to litter.

The objectors have stated that there are enough takeaways in the area. This is not a planning consideration.

It is concluded that the proposal contravenes Policy 53 but complies with Policy 1 of the development plan. It is considered that the justification given for compliance with Policy 1 provides adequate weight in support of the application.

Other Material Considerations

The other material considerations to be taken into account are the concerns of the objectors. These issues were considered and addressed in the examination of the proposal against the criteria of Policies 1 and 53. From this examination it is concluded that the proposal would not result in any additional amenity problems as the site is located within a parade of existing shop units which includes a public house, hot food takeaway and bakers.

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

Design

The only proposed elevational alterations are at the main entrance which will be situated on the west elevation where it is proposed to replace the upper panels above the doorway with a fascia sign. On the south elevation it is proposed to install a new sign indicating the location of the hot food takeaway. The installation of signage is subject to a separate planning application. Consequently, in terms of design the unit will have no adverse impact on the surrounding area.

CONCLUSION

As detailed above it is considered that the proposal is contrary to Policy 53 of the Dundee Local Plan Review 2005. However, it is considered that the proposal is in accordance with Policy 1 of the Dundee Local Plan Review. It is also 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 All mechanical and electrical plant shall not exceed NR35 as measured 1 metre from the façade of any residential property.
- 3 The fume extraction equipment and filtration system to be used shall be as detailed in the received correspondence received on 21 July 2006. In addition, details of the location of the extraction equipment to be used shall be submitted to the Council for approval prior to the commencement of the development and if approved the development will be carried out only in full accordance with the approved details.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To ensure any potential noise emanating from the building would not adversely affect the amenities of the occupiers of nearby properties.
- 3 To ensure that any potential issues associated with odour are addressed.