

**KEY INFORMATION****Ward** Claverhouse**Proposal**Change of use from  
Sandwich Shop to Hot Food  
Takeaway**Address**111-113 Cheviot Crescent  
Dundee  
DD4 9QR**Applicant**Mr James Fyffe  
31 Charlotte Street  
Dundee  
DD3 8QP**Agent**Mark Walker Architects  
31 Seymour Street  
Dundee  
DD2 1HA**Registered** 27 June 2006**Case Officer** J Young

## Proposed Hot Food Takeaway in Cheviot Crescent

A change of use from a Sandwich Shop to a Hot Food Take Away is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

**RECOMMENDATION**

Although the application is contrary to Policy 53 of the Dundee Local Plan Review 2005, it is considered that there are material considerations that would allow the proposal to be supported in these circumstances. Therefore the application is recommended for **APPROVAL**.

**SUMMARY OF REPORT**

- Planning permission is sought for change of use from a vacant filled roll shop to a hot food takeaway.
- One individual letter of objection with an attached petition of 13 signatures was received from a neighbouring business and residents. The grounds of objection are increased noise 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 and 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, there are material considerations to justify approval of the application contrary to the provisions of the development plan.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for change of use from a vacant filled roll shop to a hot food takeaway. The floor area is approximately 60sqm. It is proposed to replace a manual shutter on the front elevation with an electric one. No other elevational alterations are proposed. The proposed opening hours are 5pm to 11pm.

## SITE DESCRIPTION

The site is a vacant retail unit within a small shopping parade on the north side of Cheviot Crescent. At the west end of the shopping parade is a public house, followed by a takeaway, bookmakers, bakery and a convenience store. There are 2 storey terraced houses on the opposite side of Cheviot Crescent and open fields to the north.

## 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 located 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 to ensure 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 development 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.



## PUBLIC PARTICIPATION

The application was advertised as contrary to Policy 53 of the Dundee Local Plan Review 2005 on 10th July 2005.

Statutory neighbour notification was carried out and one individual letter of objection with an attached petition of 13 signatures was received from a neighbouring business and residents. The only valid grounds of objection are noise concerns.

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 restricting the noise from mechanical and electrical plant which, if consent is granted, would be controlled by condition.

## 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.

Policy 1 of the Dundee Local Plan Review 2005 seeks to protect the amenity of residents. It is considered that the proposed takeaway, which is on the opposite side of Cheviot Crescent, will not adversely affect the amenity of residents to the south. The rear garden of the nearest residential property is some 25m from the application property and there is a road which separates them. The residential property is approximately 40m from the proposal site. Any ventilation equipment will be located on the rear of the property and so it is considered that residents will not be adversely affected by smell or noise. It is considered that it will improve the general appearance of this shopping parade if the vacant unit is re-used as it is currently derelict. Therefore the proposal complies with Policy 1.

Policy 53 restricts the location of hot food takeaways in relation to residential properties. The property is located within a small shopping parade and there are open fields to the north. The rear garden of the nearest dwelling is approximately 25m from the application site and so the proposal contravenes this policy. However, there is a road between the two properties and any ventilation equipment will be located on the rear elevation. Therefore, it is considered that the amenity of nearby residents will not be adversely affected by the proposed hot food takeaway. There is already an existing hot food takeaway 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 attach a condition limiting mechanical and electrical plant noise to reduce any potential impact on surrounding residential properties.

## Other Material Considerations

### Objections

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. Given the location of the proposed takeaway which is on the opposite side of the road from residential properties and the fact that any ventilation equipment will be located on the rear of the premises, it is considered that there will be no adverse impact on the amenity of neighbouring residents due to smell and noise.

The objectors have stated that there are enough takeaways in the area but this is not a planning consideration. Business competition was also raised as an objection but again this is not a valid planning objection.

It will improve the general appearance of the area if this vacant unit within the small shopping parade is re-used rather than remain in a derelict state.

It is concluded that the proposal contravenes Policy 53 but complies with Policy 1 of the development plan. It is considered there are material considerations to justify supporting the application. It is therefore recommended that planning permission be granted with conditions.

### Design

No elevational alterations are proposed at this stage.

## CONCLUSION

The proposal is contrary to Policy 53 of the Dundee Local Plan Review 2005 due to the proximity of the takeaway to residential properties. It is 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 Noise from all mechanical and electrical plant shall not exceed NR35, as measured 1m from the façade of any residential property.

### Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To protect the amenity of neighbouring residents from unacceptable noise levels from mechanical and electrical plant equipment.