

**KEY INFORMATION**

Ward Maryfield

**Proposal**

Change of use from  
Bakers/Sandwich Bar to  
Sandwich Bar and Hot Food  
Takeaway

**Address**

107 Arbroath Road  
Dundee  
DD4 6HS

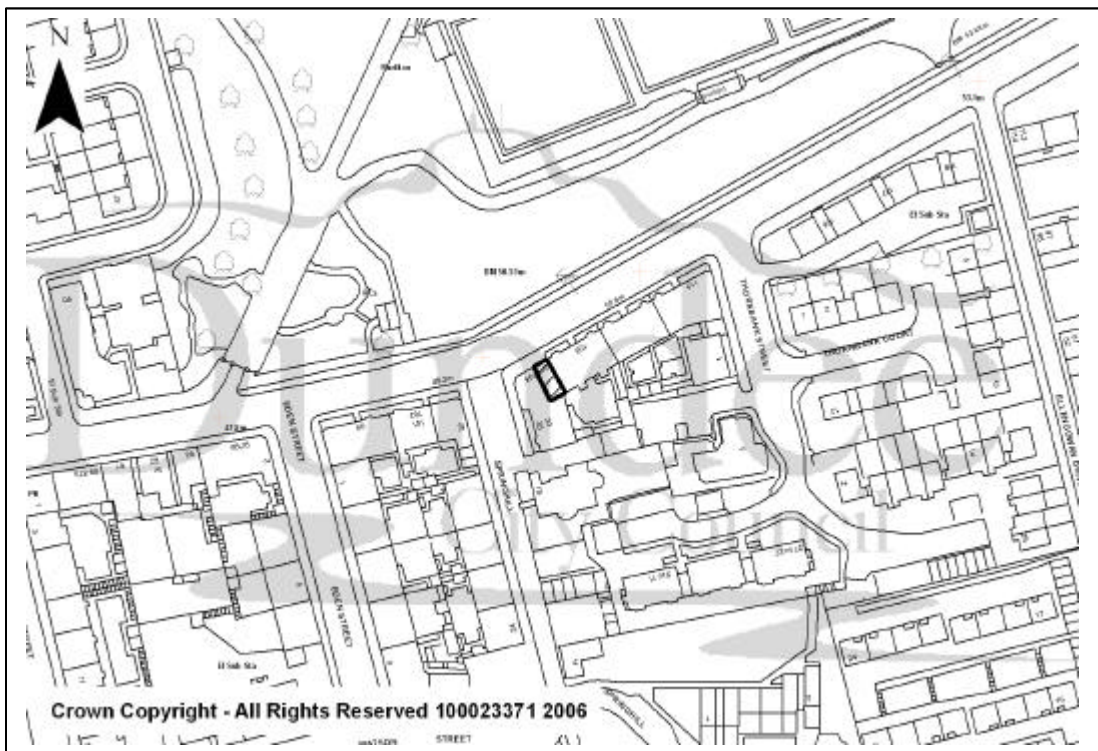
**Applicant**

Ms Sahyma Iqbal  
35F Springhill  
Dundee  
DD4 6HR

**Agent**

Registered 14 Mar 2007

Case Officer S Johnson



# Proposal for a Hot Food Take Away in Arbroath Road

The change of use from Bakers/Sandwich shop to Sandwich Bar and Hot Food Takeaway is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development is considered to comply with both Policy 1 and 53 of the Dundee Local Plan Review 2005. Therefore the application is recommended for **APPROVAL** subject to conditions.

**SUMMARY OF REPORT**

- Planning permission is sought for the change of use from a bakers/sandwich bar to a hot food takeaway at 107 Arbroath Road, Dundee.
- Two letters of objection were received from surrounding neighbours on the grounds of opening hours of the business; street litter issues and associated cooking smells.
- 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 complies with Policy 1 and Policy 53 of the Dundee Local Plan Review 2005. The views of the objectors are not supported.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use from a vacant bakers to a sandwich bar with hot food takeaway at 107 Arbroath Road, Dundee. The retail floor area will be approximately 144.5sqmetres. The opening hours are Monday-Saturday 7.30am until 6pm and closed all day Sunday. The applicant has stated that no food will be cooked on the premises. There are no proposed changes to the elevations.

## SITE DESCRIPTION

The application site is located on the south side of Arbroath Road. It is the ground floor unit of a four storey tenement block. To the west of the site is a newsagent and licensed grocer's commercial unit. The site is surrounded by residential properties. Arbroath Road is a busy arterial route with double yellow lines immediately in front of this site. Parking is available on Springhill which is located to the west of the site.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

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

### Dundee Local Plan 2005

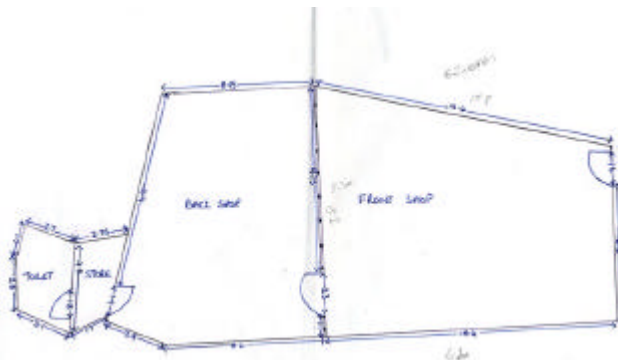
The following policies are of relevance:

**Policy 1: Vibrant And Sustainable Communities.** 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 53: Licensed And Hot Food Premises Outwith The City Centre.** 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:

- within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace (excluding cellar space) and;
- within 45 metres if the 150m<sup>2</sup> figure is exceeded.

In the District Centres some relaxation of the above controls on distance from residential property may be appropriate. However, proposals for hot food takeaways other than those outlined below, will not be permitted in premises directly adjoining (i.e. directly above or to either side) residential property which is not within the control of the takeaway proprietor/operator.



Where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above requirements these may be permitted subject to:

- the hours of operation being limited to between 7.00 am and 7.00 pm, and,
- the hot food not requiring to be prepared on the premises and only requiring heating by means of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.

### 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.

## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

## SITE HISTORY

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

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the application was advertised as being potentially contrary to Policy 53 of the Dundee Local Plan Review 2005. It should be noted that

the applicant has submitted a petition of support for this proposal. However, the majority of the signatories did not provide an address. Two letters of objection with the same issues were received from surrounding neighbours. The grounds of objection are:

Concerns regarding the opening hours of the business.

This development will result in street litter issues.

There will be associated cooking smells.

Copies of the objection letters are available for inspection in the Member's Lounge and the issues are discussed in the "Observations" section below.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards has no concerns since the removal of the cooker. They have advised that deliveries should be restricted to the operating hours of the business to prevent additional noise disturbance. Environmental Health had no other comments provided an Xpelair type fan to remove any smells from the other equipment is installed. If Members are minded to approve the application, a condition will be required to ensure a fan is installed.

Scottish Water has stated that appropriately sized grease traps are required on all drainage outlets from food preparation areas. No substance may be discharged to the public sewerage system which is likely to interfere with the free flow of its

content, have detriment to the treatment of disposal of their contents or be prejudicial to health. If Members are minded to approve the application, a note for guidance will be included in the decision notice to cover these comments.

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## OBSERVATIONS

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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 Vibrant and Sustainable Communities seeks to safeguard the amenity of residential areas. The application site has residential properties directly above it and to the east and west.

With regard to potential associated smells the applicant has verbally stated that there will be no cooking on the premises and in correspondence dated 30 April 2007 and also in the petition of support. The applicant has also stated that there is a large window in the kitchen which can be easily opened. In addition, as mentioned previously, to assist with the removal of food smells a condition will be required regarding the installation of a Xpelair type fan. The applicant has stated in correspondence dated 30 April 2007 that the cooker originally installed has been removed. Food will be reheated on site using a microwave, panini machine, oven and soup kettle. It is considered that these measures render the proposal compliant with Policy 1.

With regards to noise the applicant has stated in correspondence dated 30 March 2007 that the opening hours will be; Monday-Saturday 07:30am until 6pm and the business will be closed on Sunday. Therefore, as the business will be operating during daytime hours it is considered there will be minimum noise impact on the

surrounding area. In addition, as the property is adjacent to an existing licensed grocery shop, it is considered that due to the hours of operation, there will be no significant increase in disturbance over that which exists at present.

In terms of increased traffic, it is considered that as there is on-street parking provision to the west of the site and most of the trade will be from the surrounding residential properties, there are no parking concerns regarding customer parking or servicing for this unit. It is considered that the application is in accordance with Policy 1 of the Dundee Local Plan Review 2005.

In terms of Policy 53, as the development will be operating during daytime hours and as there will be no cooking on the premises, the proposal is assessed against the second part of Policy 53. From the detail of the proposal outlined above it is considered that this development complies with policy. However, if Members are minded to grant consent a condition would be applied relating to the hours of operation and cooking on the site.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

### Other Material Considerations

The other material considerations to be taken into account are as follows:

### Objections

Two letters of objection were received in respect of this application. The main issues relating to this application have been discussed in the development plan section above. The other issues raised by the objectors are:

### Hours of Business

The applicant was asked to provide additional information relating to hours of business and has stated in correspondence dated 30 March 2007 that the opening hours will be Monday-Saturday 07:30am until 6pm. The business will be closed on Sunday. These hours are in line with Policy 53 of the Dundee Local Plan Review 2005.

### Litter

The objectors have expressed their concern regarding a possible increase in litter. There is separate legislation to deal with any issues arising relating to litter. In addition, the applicant has stated in correspondence dated 30 March 2007 that a bin will be provided outside the development where customers can dispose of their litter.

### Petition of Support

The applicant has submitted a petition of support received on 4 May 2007 regarding this development, where the applicant has stated that there will be no cooking or frying on site and that the proposal is not to operate as a takeaway. It should be noted that the majority of signatories have not provided a contact address.

It is concluded from the foregoing that insufficient weight can be accorded to the views of the objectors such as to justify refusing planning permission. It is therefore recommended that planning permission be granted with conditions.

### Design

There are no plans to alter the external appearance of the building. The applicant has said that they have refurbished the existing shutters and repainted them. As such it is considered this development will have no adverse impact on the surrounding area.

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## CONCLUSION

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The applicant has stated in correspondence and in the supporting petition that there will be no cooking on the premises. Consequently, as detailed above it is considered that due to the hours of operation and the fact that there will no cooking on the premises, the development is in accordance with Policy 1 and 53 of the Dundee Local Plan Review 2005. It is also considered that sufficient weight can be given to the material considerations.

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## RECOMMENDATION

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It is recommended that consent 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 No use shall be made of the premises before 07.30am or after 6pm Monday -Saturday and the premises will remain closed all day Sunday. Deliveries will be made to the development premises during these opening hours.
  - 3 The hot food operations shall be confined to the preparation and sale of soup, ready made pizza, baked potatoes, toasties and pre-prepared pies as stated in correspondence from the applicant received 12 January 2007 and shall not extend to any other hot food items. Any changes to this list of hot food should be agreed in writing with Dundee City Council prior to providing any additional hot food items for sale.
  - 4 The cooking equipment shall be restricted to the list of equipment (microwave, panini machine, oven, water boiler and soup kettle) provided from the applicant which was received on 12 January 2007. However, the small cooker shall be removed as stated in applicant correspondence dated 30 April 2007. Also the pizza and potato oven shall be replaced with the single oven. Any changes to this equipment shall be agreed in writing with Dundee City Council prior to installation.
  - 5 The applicant shall provide appropriate evidence to Dundee City Council that a Xpelair type fan of a type to the satisfaction of the Council has been installed and operational prior to trading taking place from these premises.
- 4 The development is closely adjoined by residential properties and the City Council considers it necessary to strictly control the preparation of food in the interests of the amenities of the area.
  - 5 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.

## Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To protect the amenities of the area and to ensure that the site is not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties.
- 3 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.