

KEY INFORMATION

Ward Strathmartine

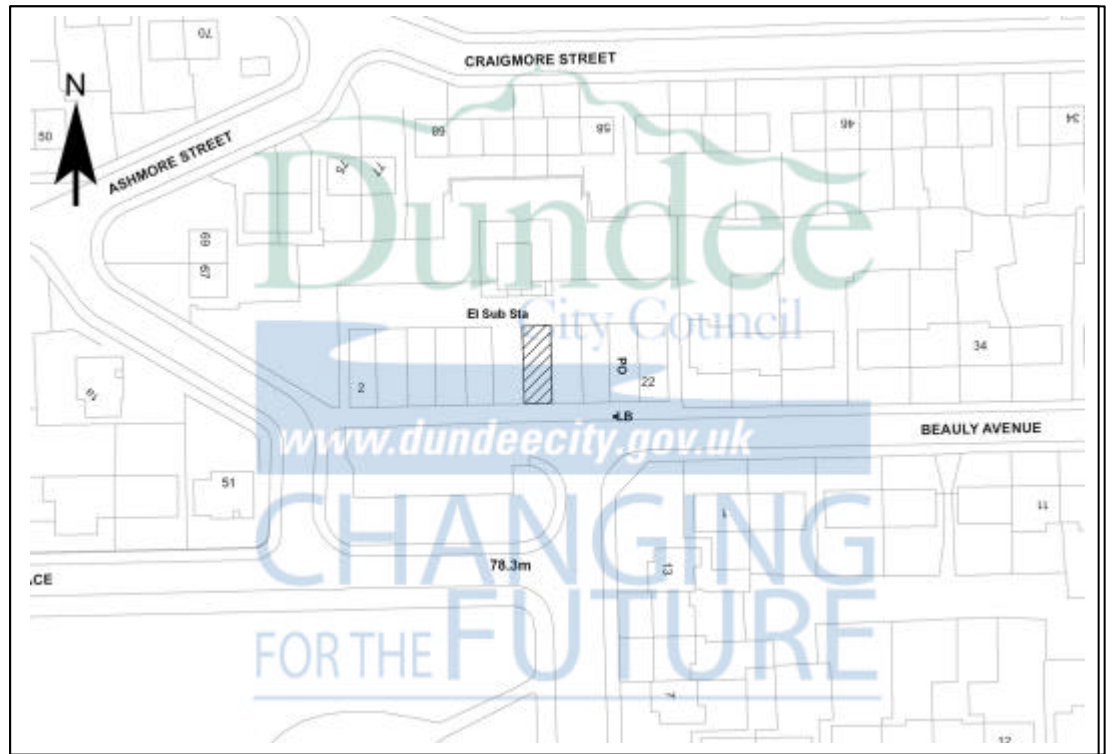
Proposal

Change of Use from Shop to Hot Food Takeaway

Address14 Beaulay Avenue
Dundee
DD3 0DP**Applicant**Robert Davie
Moatmill Farm Cottage
Moatmill
By Tealing
DD4 0AL**Agent**

Registered 10 July 2008

Case Officer E Jones



Hot Food Takeaway Proposed in Beaulay Avenue

A Change of Use from a Shop to a Hot Food Takeaway is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation.

RECOMMENDATION

The application fails to meet all of the criteria in Policy 53 but does meet Policy 1. However, the restricted hours, the limited range of hot foods and the adjacent larger hot food take away all support the proposal.

Recommendation **APPROVE** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the change of use from a shop to a hot food takeaway to operate from 0730 to 1600 hours Monday to Friday and 0700 to 1400 hours on a Saturday. It will be closed on Sunday. A limited range of hot foods has been defined by the applicant in addition to a wide range of cold snack foods and drinks.
- This is a small shop unit (60m²) forming part of a group of local shops which already contains a larger hot food take away, a general store with Post Office and a community centre lounge. The nearest houses are 19 metres to the south east and houses to the north are 20 metres away, at a higher level.
- Policy 53 : Licensed and Hot Food Premises outwith the City Centre and Policy 1 : Vibrant and Sustainable Communities apply. The proposed hot food take away is within 30 metres of existing houses but the proposed change of use fails to meet the criteria of Policy 53 in terms of the cooking methods only.
- It is considered that the relatively small scale of the unit, the restricted hours and foods and the adjacent larger hot food take away which operates until midnight are sufficiently strong material considerations to support this application which will not have a significant impact on the amenities enjoyed by local residents.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use from a shop to a hot food takeaway. The unit will operate from 0730 to 1600 hours Monday to Friday and 0700 to 1400 hours on a Saturday. It will be closed on Sunday.

A limited range of hot foods has been defined by the applicant and includes filled hot rolls, baked potatoes, chips and hot drinks in addition to a wide range of cold snack foods and drinks.

SITE DESCRIPTION

This is a small shop unit (60m²) forming part of a group of local shops on the north side of Beaulieu Avenue which already contains a larger hot food take away, a general store with Post Office and a community centre lounge. The shops lie within an established housing area. The nearest houses to the south east are 19 metres away. The housing to the north is 20 metres away, at a higher level.

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 53 : Licensed and Hot Food Premises outwith the City Centre.

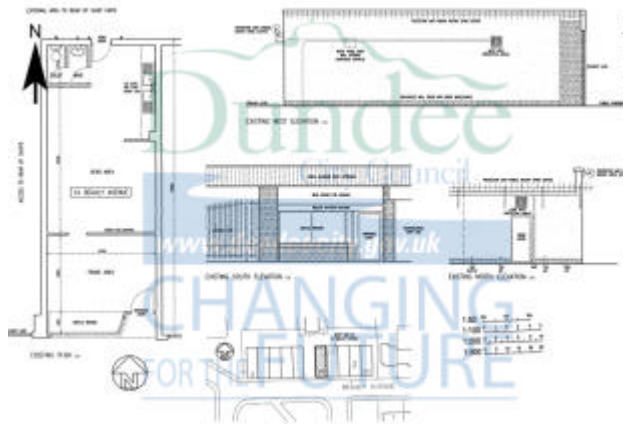
Policy 1 : Vibrant and Sustainable Communities

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 direct planning history for this unit. Planning permission was granted by the Development Quality Committee in 2005 for the change of use of 8-10 Beaulieu Avenue to a hot food take away (05/00140/COU) which was the subject of a subsequent approval to extend its opening hours until midnight (06/00188/FUL).

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a development contrary to the Development Plan. There were no objections.

CONSULTATIONS

The Head of Environmental Health and Trading Standards seeks an appropriate ventilation system and suggests a restrictive condition regarding any possible noise by such a system.

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 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:

- a within 30 metres of existing and proposed housing if the outlet does not exceed 150m² gross floorspace (excluding cellar space) and;
- b within 45 metres if the 150m² 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 (ie 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:

- a the hours of operation being limited to between 7.00am and 7.00pm; and,
- b 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.

The proposed hot food take away is within 30 metres of existing houses. Its operating hours are within the acceptable range which the policy allows but the means of cooking is more than a microwave oven or similar. Accordingly, the proposed change of use fails to meet the criteria of the policy and is contrary to it.

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.

The shop is a small unit, approximately 60m² and forms part of an existing group of local shops which also contains a larger hot food take away. Subject to the submission of acceptable details of the ventilation system, it is considered that the use of the unit as proposed will not have an adverse affect on the environmental quality enjoyed by local residents and will add to the services available to the local community.

It is concluded that the proposal complies with Policy 1.

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:

There is an existing, larger hot food take away in the same group of shops which can remain open until midnight. There are no houses immediately above these shops and the nearest house is to the south east, across Beaulieu Avenue. The range of foods proposed to be cooked and served is

relatively limited and the hours are specified. Both can be the subject of specific conditions if Members are minded to approve the application. It is unlikely that this unit would attract significant traffic into the area and there is parking available opposite the shops.

It is considered that the relatively small scale of the unit and the restricted hours and foods are a sufficiently strong material consideration to support this application to operate a hot food take away in this small group of local shops which will not have a significant impact on the amenities enjoyed by local residents.

It is concluded from the foregoing that sufficient weight can be accorded to 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 granted with conditions.

Design

There are no design issues raised by this proposed change of use.

CONCLUSION

The application fails to meet the criteria in Policy 53 but the proposal has restricted hours and a limited range of hot foods which can be the subject of conditions. It is adjacent to a hot food take away which operates for longer hours and it is considered that the proposal will provide a facility to the local community without a significant impact on the amenities enjoyed by local residents.

RECOMMENDATION

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 The hot food takeaway hereby approved shall only operate between 0730 - 1600 hours Monday to Friday and 0700 - 1400 hours on Saturday. It shall be closed on Sunday.
- 3 The range of hot food sold on the premises shall comply with the

details submitted by the applicant in the letter dated 18 July 2008.

- 4 The total noise from all M & E plant which may be installed at these premises shall not exceed NR 35 as measured 1 metre external to the facade of adjacent residential accommodation.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.
- 3 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.
- 4 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.