

KEY INFORMATION

Ward North East

Proposal

Change of use from opticians shop/practice to hot food takeaway

Address

111-113 Cheviot Crescent
Dundee
DD4 9QR

Applicant

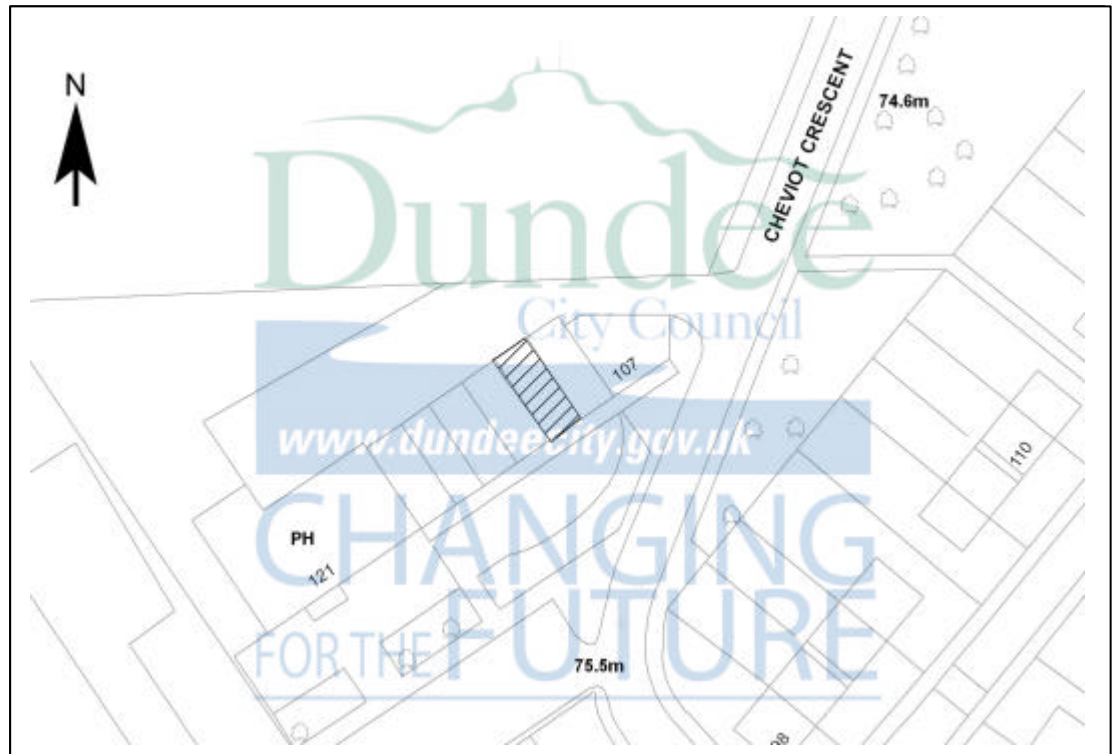
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Registered 14 July 2008

Case Officer Paul Macari



Proposal for Hot Food Takeaway in Cheviot Crescent

A change of use from an opticians to hot food takeaway is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

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. the application is therefore recommended for APPROVAL subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for change of use from a vacant Opticians to a hot food takeaway.
- This application was advertised in the Dundee Evening Telegraph as a bad neighbour development and a development contrary to Policy 53 (Licensed and Hot Food Premises Outwith the City Centre) of the Dundee Local Plan Review 2005 respectively.
- 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 Opticians to a hot food takeaway. The floor area is approximately 60m². No elevational alterations are proposed. The proposed opening hours are Monday to Saturday 12.00pm to 2.00pm and 4.30pm to 11.00pm. On Sundays the premises will open from 4.30pm to 11.00pm. The internal alterations to the building will involve the formation of welfare facilities, a storage area, kitchen, serving area and customer waiting area.

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, another takeaway, the application site and a convenience store. There are 2 storey terraced houses on the opposite side of Cheviot Crescent and open fields to the north. There is a small car park situated between the shopping parade and houses. The access road to the car park of Cheviot Crescent also provides access to the rear gardens of the adjacent houses. There is a service road to the rear of the shopping parade.

The shopping parade is brick built with a flat roof. Each unit has front and rear access. The units are painted different colours with red, blue and green predominating. The application site benefits from stainless steel shutters on the front elevation with the shutter box concealed behind the existing fascia sign.

The existing licensed premises have ventilation and extraction flues venting from the roof. The existing hot food takeaways operate between the hours of 5.00pm and 11.00pm.

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 - 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:



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.

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

The application was advertised as a bad neighbour development and as being contrary to Policy 53 of the Dundee Local Plan Review 2005 in the Dundee Evening Telegraph on 22 and 29 July 2008 respectively.

Statutory neighbour notification was carried out. No letters of objection have been received.

CONSULTATIONS

No adverse comments have been received from 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.

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 north 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 site and there is a road which separates them. The nearest house to the application site is approximately 40m from the proposal site. Any ventilation equipment will be located on the roof of the property and so it is considered that residents will not be adversely affected by smell or noise. The proposals are considered to improve the general appearance of the shopping parade. This is because the application site as existing is vacant and falling

into a state of dereliction. The proposed occupation of the building will not only enhance the vitality of the existing shopping parade but also guarantee the continued maintenance of the building. The proposal is therefore considered to safeguard the longevity of the building as well as those adjoining. Further, there is a car park to the front (south) of the application site which serves the shopping parade that will provide the proposed hot food takeaway with adequate customer parking facilities. The access road to the rear of the property will provide adequate servicing facilities without blocking Cheviot Crescent. Therefore by virtue of layout and design of the existing parking and road infrastructure the proposal will not impact upon the existing level of environmental quality afforded to neighbouring residents. The proposals are therefore considered to comply 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 roof of the building. Therefore, it is considered that the amenity of nearby residents will not be adversely affected by the proposed hot food takeaway. There are already 2 existing hot food takeaways within the shopping parade and a third could be argued to impact upon current levels of residential amenity. However, as no adverse comments have been received from the Council's Environmental Health and Trading Standards Department, and the nearest house is approximately 40m from the application site it is considered that the potential for additional noise and smell disturbance is negligible. To ensure that this matter is addressed should planning permission be granted it will be necessary to attach conditions limiting mechanical and electrical plant noise to reduce any potential impact on surrounding residential properties. Further, a condition requiring the submission of technical information specific to the proposed ventilation and extraction system will also be

incorporated into the decision notice should planning permission be granted.

Other Material Considerations

The application site as existing is vacant and beginning to show signs of dereliction following acts of vandalism. The proposed change of use will result in the occupation and continued maintenance of the building. This will further safeguard the longevity of the building and enhance the vitality of the surrounding commercial properties. Although stereotypically hot food takeaways have a bad reputation for impacting upon residential amenity, should planning permission be granted the conditions proposed are considered to adequately address the matters of noise and smell disturbance that are commonly considered to impact upon amenity.

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 support of this application. It is therefore recommended that planning permission be granted with conditions.

Design

No alterations to the front or rear elevations are proposed.

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 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 BEFORE WORK STARTS ON SITE, details of the proposed extraction and ventilation system shall be submitted to this Planning Authority for written approval and thereafter the approved system shall be

installed in accordance with the approved plans.

- 3 Noise from all mechanical and electrical plant shall not exceed NR35, as measured 1m from the facade of any residential property.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interest of safeguarding residential amenity and preventing smell disturbance.
- 3 In the interests of safeguarding residential amenity and reducing the potential for noise disturbance.