

**KEY INFORMATION**

Ward Lochee

**Proposal**

Change of use from bookmakers to hot food takeaway/snack bar

**Address**

89 Charleston Drive  
Dundee  
DD2 2HB

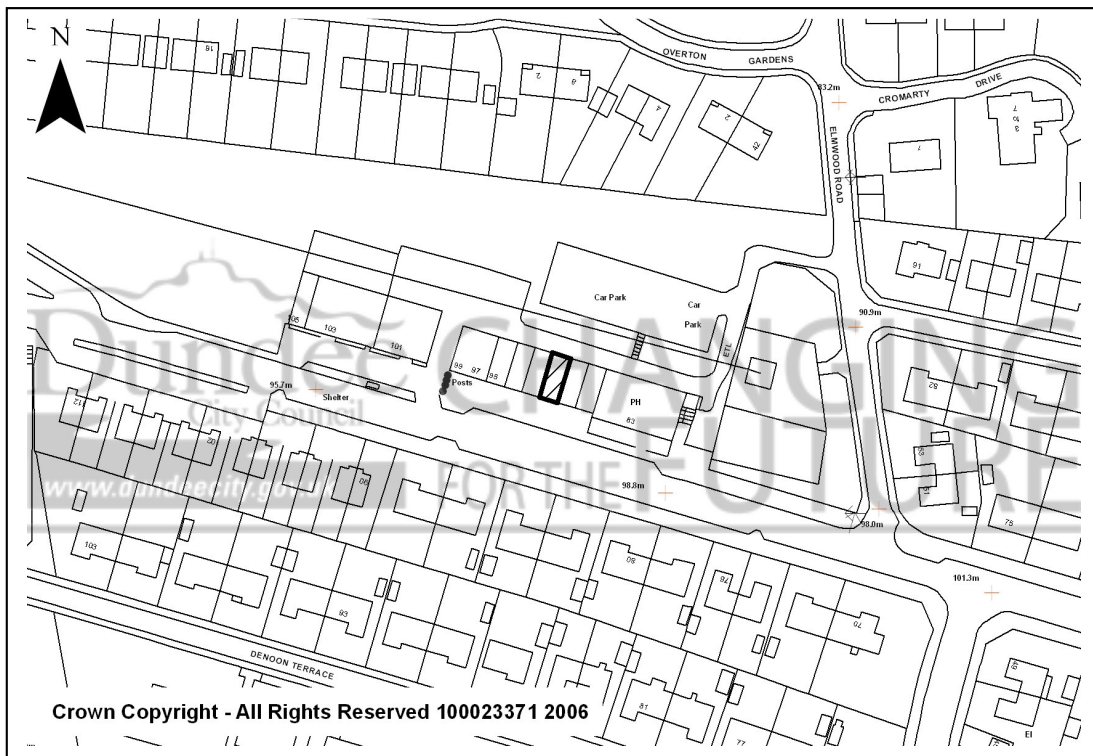
**Applicant**

Robert Davie  
Moatmill Farm Cottage  
Moatmill  
By Tealing  
Dundee DD4 0QL

**Agent**

Registered 9 Feb 2009

Case Officer Eve Jones



# Proposed Hot Food Takeaway in Charleston Drive

The change of use from bookmakers to hot food takeaway/snack bar is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

**RECOMMENDATION**

The report concludes that sufficient weight can be accorded to the material considerations of the surrounding uses, the restricted hours and the busy location such as to justify the grant of planning permission contrary to the provisions of Policy 53. The objection is not supported. It is therefore recommended for **APPROVAL** subject to conditions.

**SUMMARY OF REPORT**

- Planning permission is sought for the change of use of an existing bookmakers to a hot food takeaway/snack bar to open from 0730 to 1430 hours Monday to Friday and 0730 to 1300 hours on Saturday. The range of foods will be hot and cold filled rolls, chips and hot snacks.
- The site forms part of the local group of shops on the north side of Charleston Drive. Within the shops, 4 other hot food take aways operate in the evening. Charleston Drive is busy and there is on street parking provision on both sides of the road.
- Dundee Local Plan 2005. Policy 53 - Licensed and Hot Food Premises outwith the City Centre applies. The nearest houses to the south are 32 metres away but lie approximately 2 metres above the level of the shops. New houses have been granted planning permission within approximately 20 metres to the north but will be below the level of the shops due to the sloping site.
- One objection was received on the grounds that the proposed use would add to the existing problem of litter in the area. Litter is a general problem which cannot be the responsibility of the operators of the shops and take aways provided there are litter bins for customers to use. The objection is not supported.
- It is considered that the proposed use is unlikely to adversely affect the amenity of surrounding neighbours because of the surrounding take away uses, the proposed restricted hours of operation and the busy nature of the existing shop group.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of an existing bookmakers to a hot food takeaway/snack bar. The proposed hours of operation will be 0730 to 1430 hours Monday to Friday and 0730 to 1300 hours on Saturday. The range of foods will be hot and cold filled rolls, chips and hot snacks.

## SITE DESCRIPTION

The site forms part of the local group of shops on the north side of Charleston Drive. In the larger terrace, there are 6 small shop units between a public house to the east and a larger general food store to the west. Of the 6 small units, 3 are already hot food take aways operating in the evening. In addition to the application site there is also a newsagent and a hairdresser. There are 3 further shop units to the west including another hot food take away. The units are single storey to the road but two storey to the rear due to the configuration of the site. There are car repair premises in part of the basements to the rear.

The nearest residential properties are on the south side of Charleston Drive. The front gardens are 25 metres from the shops and the houses are 32 metres away, at a higher level of approximately 2metres above the ground level of the shops.

Charleston Drive is a busy local distributor road and there is on street parking provision on both sides of the road in the vicinity of the shops. The area is busy throughout the day.

## 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.

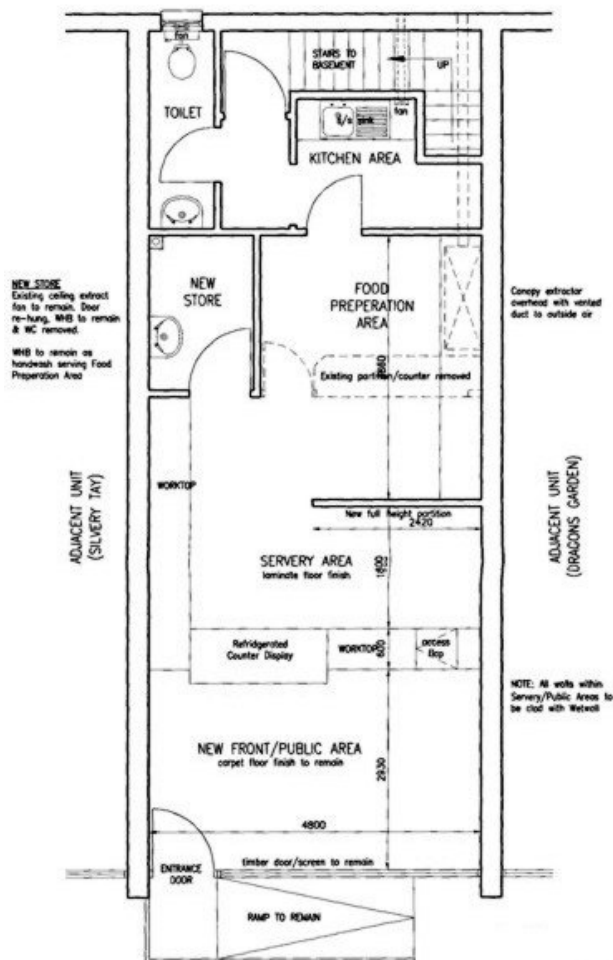
## Scottish Planning Policies, Planning Advice Notes and Circulars

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.



PROPOSED GF PLAN

## SUSTAINABILITY ISSUES

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

## SITE HISTORY

This site has had several changes of use.

02/00787/COU - Taxi office to bakery with hot food. This was approved on 29 November 2002 subject to restricted hours of operation from 0700 to 1900 hours.

05/00142/COU - Bakery to betting office. Approved with conditions 28 March 2005.

04/00786/COU - Planning permission was granted by the Development Quality Committee on 31/01/2005 for the change of use of the adjoining unit, No 87 Charleston Drive, from a laundry to a hot foot take away.

Application reference 07/00876/FUL is also of relevance. Planning permission was granted by the Development Quality Committee on

21 April 2008 for the erection of 16 houses on the land to the rear of these shops. Parking is proposed to the rear of the shops enclosed by a full height retaining wall beyond which is the access road with the houses beyond. The nearest proposed house to the application site is approximately 20 metres but it will be at a much lower level due to the sloping nature of the area.

## PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a development contrary to the Development Plan as the gardens of the houses opposite fall within the restricted distance for Policy 53. One objection was received, from a local resident, on the grounds that the proposed use would add to the existing problem of litter associated with these shops. The objection is considered in the Observations below.

## CONSULTATIONS

There were no adverse comments 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 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 150m<sup>2</sup> gross floorspace (excluding cellar space) and;
- b 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:

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

In respect of existing housing the site is 25 metres from the front gardens and 32 metres to the houses on the south side of Charleston Drive. The houses are approximately 2 metres higher than the shops.

As noted in the Planning History, planning permission has been granted for housing on the land to the rear of the shops and the nearest house would be approximately 20 away. Again, due to the sloping nature of the ground, the proposed new houses would be below the level of the shops. The site is within the distance which the policy indicates is unacceptable for the proposed use.

The policy provides some relaxation for proposals within this distance if the unit will operate between 0700 and 1900 hours and heat food rather than cook it on the premises. The applicant has indicated that the proposed hours of operation are well within the hours indicated but that food will be cooked on the premises. Accordingly, the proposed use does not meet all of the criteria for relaxation and is contrary Policy 53.

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:

#### Objection

One objection was received, from a local resident, on the grounds that the proposed use would add to the existing problem of litter associated with these shops.

The applicant indicates that he will provide litter bins and will make customers aware of them and the concerns of local residents.

It is noted from the site that there are existing litter bins outside the shops and that litter is also likely to be generated by customers of the newsagent and foodstore which sell snack foods. Litter is a general problem which cannot be the responsibility of the operators of the shops and take aways if there are litter bins provided for customers to use. The objection is not supported.

## Planning History and Restricted Hours

As noted in the Planning History above, this unit has previously had planning permission as a bakery with hot food sales which was restricted to specific operating hours, which were longer than the proposed hours. In addition, within this shopping group there are 4 hot food take aways which operate until much later hours than this proposed unit. One was granted permission by the Development Quality Committee in 2005. It is considered that the proposed use is unlikely to adversely affect the amenity of surrounding neighbours because of the existing take away uses, the proposed restricted hours of operation and the busy nature of the existing shop group.

As the proposed hours are very restricted and fall well within Policy 53 which limits possible consent to between 0700 hrs and 1900 hrs, it is considered that the hours of operation for this unit can be extended to give the applicant some flexibility in daytime operation of the business. Otherwise, a further planning application would be required for any daytime extension of the opening hours. Should Members be minded to approve the application, it is suggested that the closing time be 1900 hours on Monday to Saturday with no opening on Sunday.

It is concluded from the foregoing that the objection is not supported but that sufficient weight can be accorded to the remaining material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan.

### Design

There are no design issues as the application is for change of use only.

## CONCLUSION

It is therefore recommended that planning permission be granted with conditions.

## 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 hours of operation shall be no more than 0730 to 1900 hours on Monday to Friday and 0730 to 1900 hours on Saturday.
- 3 The range of foods sold shall be hot and cold filled rolls, snack meals and chips in accordance with the details provided by the applicant in the email dated 2 March 2009.
- 4 The operator shall provide litter bins in accordance with any requirements of the Council's Waste Management Department within one month of the first operation of the unit hereby approved.

### **Reasons**

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 In the interests of the amenities of the occupiers of nearby properties.
- 3 In the interests of the amenities of the occupiers of nearby properties.
- 4 In the interests of the amenities of the occupiers of nearby properties.