

KEY INFORMATION

Ward Strathmartine

Proposal

Permission to continue use as a fast food catering outlet

Address

Land to West of 18 Faraday Street
Dryburgh Industrial Estate

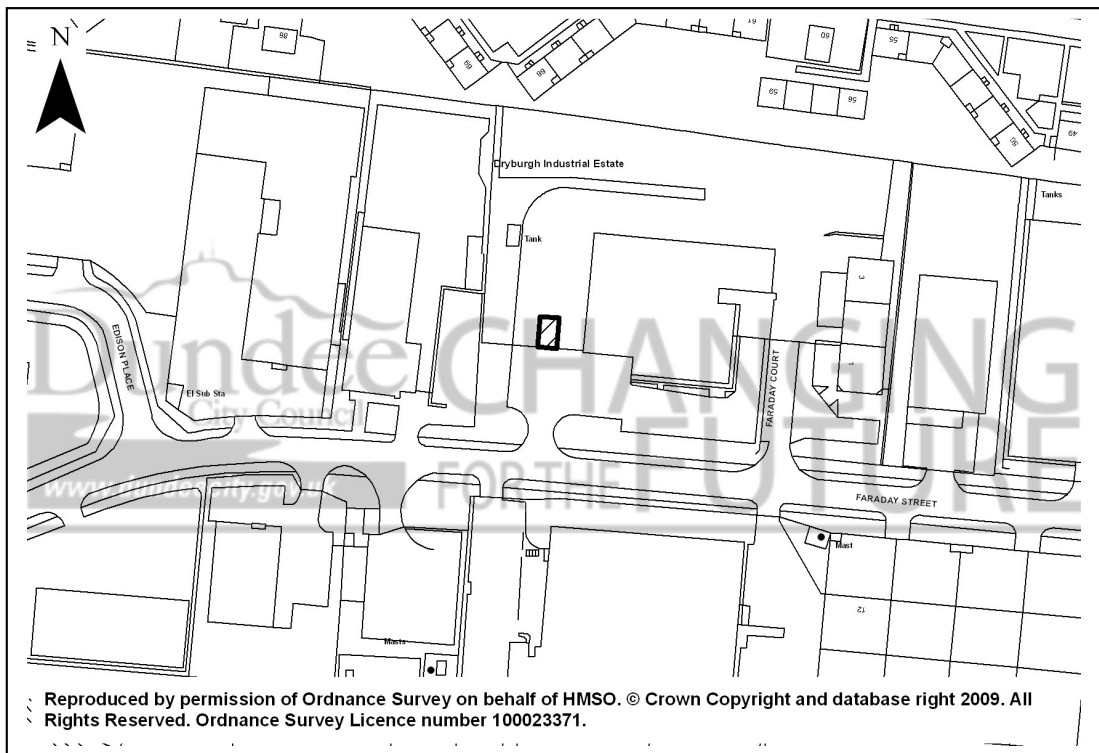
Applicant

Craig Ogilvie Dolan
20F Sandeman Street
Dundee
DD3 7NN

Agent

Registered 21 Oct 2009

Case Officer D Gordon



Proposal to Continue Use of Fast Food Unit in Dryburgh Industrial Estate

The application for permission to continue use as a fast food catering outlet is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

It is considered that the proposal to continue the use of the structure as a fast food outlet to serve the surrounding industrial estate is consistent with the requirements of the relevant development plan policies. There are no material considerations of sufficient weight that would justify the refusal of this application contrary to the terms of these policies. The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Permission is sought to continue the use of a temporary steel structure as a fast food outlet to serve the surrounding industrial estate. Consent for this building and its use was originally granted permission by this Council in 2004 subject, amongst other things, to a limited period of 5 years. The applicants wish to continue the use of this building as a fast food outlet.
- No objections to the proposal have been received.
- The proposal is considered to be consistent with the relevant land use policies of the Dundee Local Plan Review 2005.
- There has been no material change in circumstances relating to this proposal since the original grant of consent.
- The building is located on land which is under the ownership of the City Council. In this respect, the application is prohibited from being determined by an "appointed officer" under the Council's Scheme of Delegation.

DESCRIPTION OF PROPOSAL

The proposal under consideration seeks permission to use a temporary structure as a hot food carry out facility. Consent to use this structure for these purposes was originally granted permission by the Council in 2004 subject to certain conditions including the use being limited to a 5 year period only. The applicants wish to continue this use and have advised that there are no changes in the operation of the facility since the previous grant of permission.

The building is a small steel framed structure that sits behind a 2 metre high palisade security fence on the north side of an off street car parking area attached to a showroom/warehouse business. The building is flat roof in design and has a open partial glass frontage (during opening hours) that faces south onto the above car park.

The building is located on land which is under the ownership of the City Council. In this respect, the application is prohibited from being determined by an 'appointed officer' under the Council's Scheme of Delegation.

SITE DESCRIPTION

The site is located to the north of Faraday Street within the Dryburgh Industrial Estate. The site is located immediately to the west of a showroom/warehouse business. Further to the west is the Driving Test Centre for the city. The site is flat and is separated from the main car parking area to the south by a 2 metre high palisade security fence.

The surrounding area to the east, west and south is predominantly business/industrial in character. To the north there are the residential properties on Harrison Avenue located approximately 61 metres distant.

POLICY BACKGROUND

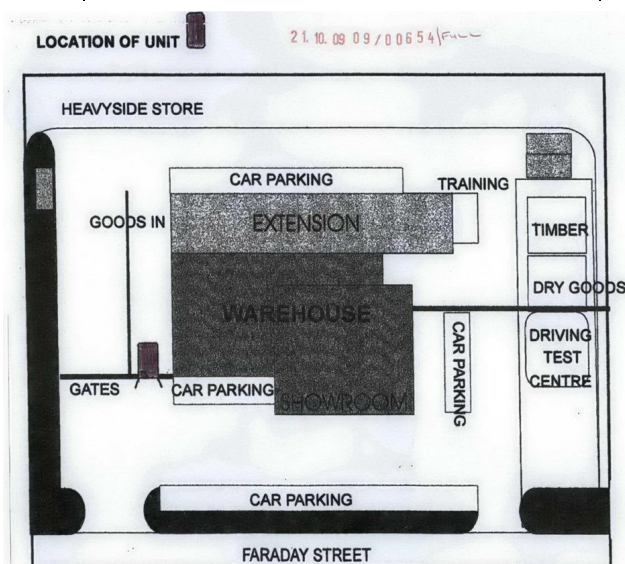
Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 2005

The following policies are of relevance:

Policy 24: Principal Economic Development Areas - Principal Economic Development Areas are of City-wide significance and as such will be safeguarded for industrial and business use. Uses outwith Classes 4



"Business", 5 "General Industry" and 6 "Storage and Distribution" will be resisted. Exceptions where defined in Policy 27 (Ancillary Services within Economic Development Areas), will only be considered favourably where it can be demonstrated that the development will enhance the attractiveness of the area for further industrial and business investment.



Policy 27: Ancillary Services Within Economic Development Areas - within Economic Development Areas, appropriate ancillary services which can be demonstrated to meet the needs of employees and complement existing businesses will be supported where they satisfy the following criteria:

- a access and parking arrangements must be suitable for both pedestrians and vehicles;
- b where necessary appropriate attention should be given to landscaping and boundary treatment;
- c depending on the nature of the operation, noise impact and air quality studies may be required on submission of an application; and
- d the use is in accordance with other Plan policies.

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 150 square metres 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 (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 7.00am 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

04/00704/FUL - Erection of Fast Food Outlet - Approved (for a limited period of 5 years) on 4 November 2004.

PUBLIC PARTICIPATION

No objections to the proposals from members of the public have been received.

CONSULTATIONS

There were no adverse comments received from any of the consultees.

OBSERVATIONS

Statutory Requirements

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above

The application seeks permission to continue the use of a temporary steel 'cabin' type structure as a hot food facility. Permission for this building and its use was originally granted permission by this Council in 2004 subject to certain conditions including the use of the property being limited to a 5 year period only (due, amongst

other things, to the temporary nature of the structure).

The use of the building for the purposes proposed has been established by the previous grant of permission as outlined above. It is considered that the use of this small unit as a hot food facility for the surrounding industrial estate is in accordance with the relevant Employment Land policies and the Location of Hot Food policy of the Dundee Local Plan Review 2005 (Policies 24, 27 and 53 refer).

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:

No objections to the proposal to continue the use of the building for hot food purposes have been received.

There has been no material change in circumstances in the operational aspects of the facility since the original permission was granted.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the refusal of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

It is considered that the scale, appearance and materials of the structure are consistent with the industrial characteristics of the surrounding area.

CONCLUSION

The proposal to continue the use of the structure for hot food purposes is considered to be in accordance with the relevant development plan policies for this industrial estate. There has been no material change in circumstances that relate to this facility since the original grant of permission in 2004. In light of the temporary nature of the building it is considered appropriate to offer support for the development for a further period of 5 years.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:

- 1 The development hereby permitted shall be commenced within three years from the date of this permission.
- 2 The hot food facility hereby permitted shall cease on 1 January 2015.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.
- 2 In order that the Council may review this development in light of the temporary nature and appearance of the structure hereby granted permission.