

KEY INFORMATION**Ward** Coldside**Proposal**

Change of use from vacant public house to 2 No retail units and 1 No hot food takeaway and the creation of road layby

Address

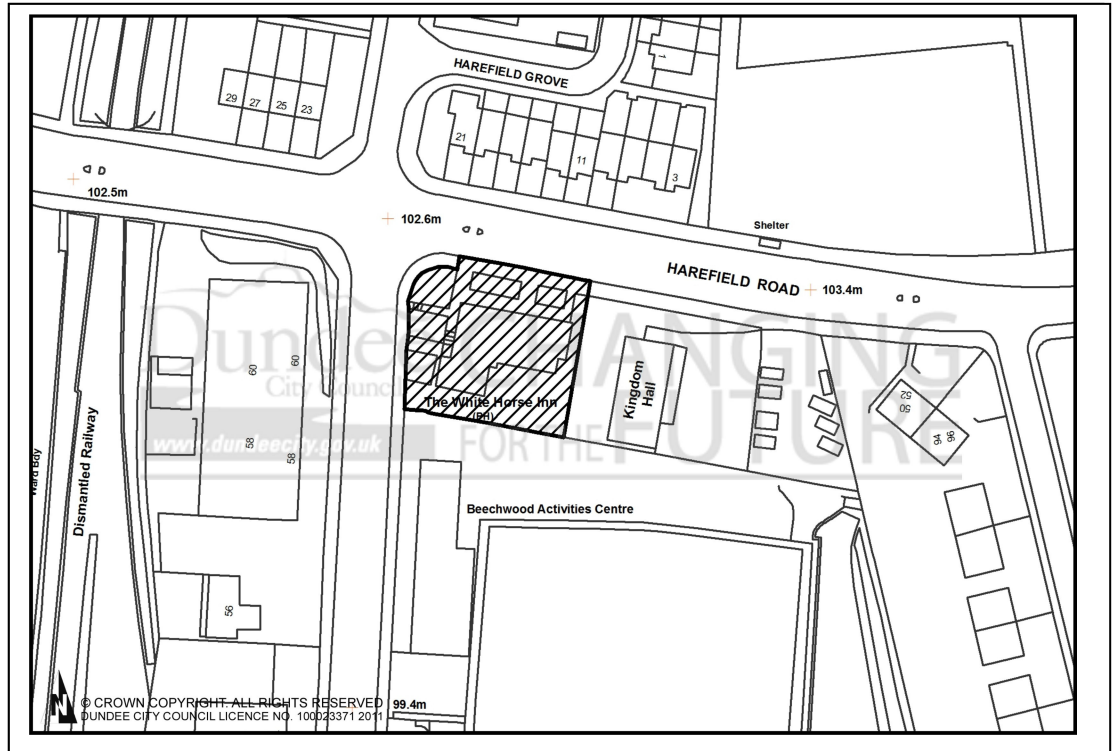
White Horse Inn
Harefield Road
Dundee

Applicant

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Registered 17 Feb 2011**Case Officer** B Knox

Conversion of Pub to Take Away and Shops

The change of use from vacant public house to 2 No retail units and 1 No hot food takeaway and the creation of road layby is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

It is concluded that the application is acceptable and will not detract visually from the surrounding area or have significant impacts upon shopping provision in the area. It is considered that there will be no significant impacts upon neighbouring properties as a result of the uses, included the hot food takeaway, subject to the imposition of appropriate conditions. The application is therefore recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- The application proposes the change of use of an existing public house to that of a single hot food takeaway and 2 retail units.
- Three batches of a petition of objection with the same wording were received in relation to the proposal and total of 6 letters of individual objection. The main issues raised related to car parking and traffic issues and amenity issues as a result of the proposed hot food takeaway.
- Policies 1, 45 and 53 of the Dundee Local Plan Review 2005 are relevant to the determination of the application.
- It is considered that there will be no significant impacts upon neighbouring properties as a result of the uses, included the hot food takeaway, subject to the imposition of appropriate conditions. There are material considerations to support approval of the application despite the fact that it fails to meet the requirements of Policies 53 and 45 of the Dundee Local Plan Review 2005.

DESCRIPTION OF PROPOSAL

The application proposes the change of use of an existing public house to that of a single hot food takeaway and 2 retail units. The hot food take away would have a floor area of approximately 147m² with 105m² being the net trading area. The two shops units would have a total area of 141m² of which 99m² is the net trading area and 42m² is non trading area.

There are limited alterations to the exterior of the unit. There shall be new door openings to the north elevation and a single door opening to the west elevation. It is also intended to create a car parking lay-by at the front of the property on Harefield Road which would be capable of accommodating approximately three cars.

The building benefits from off street car parking at the present time to the rear of the building which the plans indicate is capable of providing space for 7 cars.

SITE DESCRIPTION

The application site is located on the south side of Harefield Road on the corner with Balfield Road. The property is vacant at the present time but the most recent use was for a public house. Therefore, the property could now be used for that purpose without the need for planning permission.

There is a meeting hall to the east of the site which takes access from Harefield Road. There are residential properties directly opposite the site on the north side of the street situated approximately 30 metres away.

There is a large area to the front of the application building on Harefield which is laid in concrete stones. In addition, there is an enclosed car parking area at the rear of the property which takes access from Balfield Road.

The building is unusual in appearance with a mono pitch style roof that is finished in natural slate. The front of the building facing into Harefield Road is finished in dry dash with two openings. There is a small area for signage on the frontage where the

name White Horse Inn is currently displayed.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

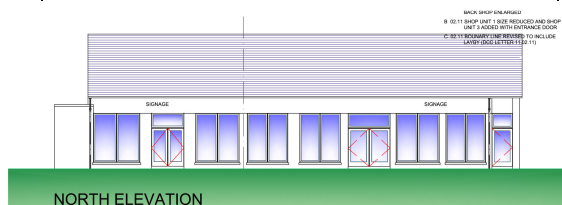
There are no policies relevant to the determination of this application.



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 45: Location of New Retail Developments - the City Centre and District Centres will be the locations of first choice for new or expanded retail developments not already identified in the Local Plan. Proposals for retail developments outwith these locations

will only be acceptable where it can be established that:

- no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres;
- individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres;
- the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres;
- the site is readily accessible by modes of transport other than the car; and
- the proposal is consistent with other Local Plan policies.

Development proposals generating significant traffic must be supported by Transport Assessments and Travel Plans where necessary. Travel Plans will be implemented through appropriate planning and/or other agreements.

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 150m² gross floorspace (excluding cellar space) and;
- 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:

- f the hours of operation being limited to between 7.00am and 7.00pm; and
- g 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

The following are of relevance:

Non Statutory Statements of Council Policy

There are no statements of relevance.

SUSTAINABILITY ISSUES

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

SITE HISTORY

06/00701/COU - C/U of public house to Hot Food Take-Away and Office - Withdrawn on 19 October 2006.

08/00342/COU - C/U of Public House to Offices - Declared Invalid on 2 September 2008

09/00387/COU - C/U of Public House to Cafe Bistro Operating from 8.00am to 11.00pm, Monday to Saturday, and 11.00am to 10.00pm on Sundays and Alterations to Front and Side Elevations - Approved subject to conditions regarding noise arising from any mechanical or electrical plant 26 October 2009.

PUBLIC PARTICIPATION

The Statutory Neighbour Notification procedure was carried out and the application was advertised under Schedule 3 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

Three batches of a petition of objection with the same wording were received in relation to the proposal and total of 6 letters of individual objection. A

large volume of comments were made but the concerns can be summarised as falling into the following.

Traffic and Parking Issues

It will be a hazard for there to be cars parked at a busy junction.

The lay-by will lead to illegal parking increasing the dangers at this section of road.

Amenity Issues

Increased noise and litter levels.

The closest houses are only 30 metres away from the building.

A take away will attract youths to congregate.

The development would have a detrimental impact upon existing shops resulting in job losses in the area.

Several objectors raised the issue of the value of residential properties which is not a material planning consideration and cannot be taken into consideration.

Other issues relating to the provision of existing fish and chip shop facilities in the area were raised by a large number of the objectors and such issues of commercial competition cannot be taken into consideration in the determination of the planning application.

CONSULTATIONS

Environmental Health and Trading Standards advised that in order to ensure that the proposed extraction ventilation system does not have a detrimental impact upon the neighbour residential occupiers a noise condition should be applied to any grant of permission.

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 the development plan unless other 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.

Policy 53 (Licensed and Hot Food Premises Outwith the City Centre) - the nature of the application requires that the proposals are considered under the terms of Policy 53 of the Dundee Local Plan 2005. This Policy requires that, in general, no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food are acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150m² gross floorspace or 45 metres if the 150m² figure is exceeded.

The hot food premises in question is proposed to have a gross floor area of approximately 147m². A visit to the site has revealed that there are a number of dwelling houses evident to the north of the site on the opposite side of the street. These properties are located approximately 30 metres distant from the application premises when measuring from building to building but the curtilages of these properties are within the recommended distances. The application therefore fails to meet the terms of this Policy.

Policy 1 (Vibrant and Sustainable Communities) - this policy promotes vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New developments should seek to minimise any affect on the environmental qualities currently enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

The nearest residential properties are located approximately 30 metres to the north. These dwellings are separated from the application site by Harefield Road which is a busy district distributor road that runs in an east to west direction across this part of the city.

It is considered that the proposed alterations to the frontage of the premises are acceptable and will improve the main north elevation of the building. As they are fairly minor in nature, the alterations will not have a significant effect upon the appearance of the property in relation to the wider area but bringing the building back into active use will help to enliven the frontage to the benefit of the surrounding area. The design

changes are therefore considered to be acceptable.

In relation to the layout of the site, there are to be no significant alterations. The existing car parking area to the rear of the property is proposed to be utilised for parking and the storage of bin facilities. The visual emphasis of the building may change slightly with the inclusion of an additional door to the west elevation but this is considered to be acceptable.

The building benefits from off street car parking at the present time to the rear of the building which the plans indicate is capable of providing space for 7 cars. It is also proposed to provide a lay by at the front of the property to accommodate three cars.

Harefield Road is approximately 11 metres wide and Balfield Road is approximately 9.5 metres wide. There is an existing footway adjacent to the site with a width of approximately 2.5 metres. Taking the above into consideration, the roads and foot ways are considered to have the capacity to cater for the proposed development.

It is acknowledged by the applicant that the lay-by will not be able to be the subject of waiting restrictions to dedicate the spaces for use by the customers of the uses. It will ultimately form part of the public road. However, it is considered that in this location the provision of the lay-by in addition to the car parking to the rear will be sufficient to ensure that there are no significant traffic issues associated with the siting of the hot food takeaway and shops in this location. The control of illegal parking is not a matter for the planning system but the provision of a lay-by and car park are sufficient to cater for the needs of customers.

The applicants have also provided information as to the servicing of the units in terms of deliveries and recycling. The information submitted shows that it will be possible for vehicles to circulate within the rear parking area of the site and at the same time allow for sufficient bin storage.

The applicants have indicated that they wish to operate the takeaway between the hours of 12 noon and 10 pm. This is considered to be acceptable and will ensure that any noise arising is restricted. In specifically considering the takeaway element of the application it must be noted that the

building can be used as a public house at the present time since that was the last known use with planning permission. The effect of patrons smoking outside beyond the hour of 10 pm which would be likely with a public house is considered to be greater than the likely impact that granting a hot food takeaway in this location would have, particularly when it is proposed to close at 10.00pm in the evening.

Due to the distance to the nearest dwellings and the fact that the property was previously used to prepare food on the premises, it is considered that there would be no significant impact upon the nearest residential occupiers in this regard. A condition can be attached to any grant of permission to ensure that the details of the ventilation system shall be sufficient.

In addition any noise generated by the mechanical and electrical plant from within the proposed hot food takeaway shall be restricted by condition to NR45 during the day and NR35 at night as measured 1m external to the facade of neighbouring residential properties. This shall prevent any instances of mechanical or electrical noise disturbance from adversely affecting neighbouring residential properties.

Accordingly, it is considered that the application is in accordance with Policy 1 of the Dundee Local Plan Review 2005.

The proposals meet the requirements of Policy 1 (Vibrant and Sustainable Communities) but fail to adhere to the requirements of Policy 53 (Licensed and Hot Food Premises Outwith the City Centre) of the Dundee Local Plan Review 2005 due to the relative distance to the nearest residential properties.

The two shop units would have a total area of 141m² of which 99m² is the net retail trading area and 42m² is non trading area. The application site is in an out of centre location and therefore Policy 45 (Location of New Retail Developments) would apply. Policy 45 stipulates that the City Centre and District Centres will be the locations of first choice for new or expanded retail developments not already identified in the Local Plan. Proposals for retail developments outwith these locations will only be acceptable where it can be established that:

- a No suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres.

The application site is situated in a prominent location on Harefield Road. It can be considered that the nearest District Centre, Lochee serves the area in terms of shopping provision but the site is located approximately 2.3 miles from the edge of the City Centre. It is considered that given the proximity to the Lochee District Centre, that it is likely that the small retail units could be accommodated within the nearest District Centre. The application therefore fails to comply with this criteria.

- b The proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres.

There is no specific deficiency in shopping provision in the area.

- c The site is readily accessible by modes of transport other than the car.

The application site is accessible by a range of different modes of transport including the car. It is anticipated that the shops are also likely to attract customers on foot due to their location close to residential areas. It is also readily accessed by public transport also. It is therefore considered to be in a suitably accessible location.

- d The proposal is consistent with other Local Plan policies.

For the reasons set out above, the application does not fully comply with the Development Plan.

The application therefore does not comply with some of the criteria of Policy 45 of the Dundee Local Plan Review 2005.

It is concluded from the foregoing that the application is in compliance with Policy 1 but fails to fully satisfy the requirements of Policies 45 and 53 of the Dundee Local Plan Review 2005.

Other Material Considerations

- a Policy 53 (Licensed and Hot Food Premises Outwith the City Centre)

The proposals fail to adhere to the requirements of Policy 53 of the Adopted Local Plan because the curtilage of the hot food takeaway shall be within 18.5 metres of the curtilage of the nearest residential property. However, the actual distance when measuring the distance between the buildings is approximately 30.5 metres. The Policy offers no specific guidance on the distances which should take precedence in the assessment of applications in relation to such criteria but it is considered that the main aim of the policy is to ensure that the proposals do not result in significant issues of noise or smell. The issues regarding noise have been discussed above in relation to Policy 1 of the Dundee Local Plan where it was concluded that a hot food takeaway and two shops would present no significant increase in the potential for noise than the public house which is the current use permitted on site. This current use would also fail to comply with the above distance criteria for the same reasons.

The proposed hot food takeaway shall operate between the hours of 12.00pm and 10.00pm Monday through to Sunday. Given that the application site is located on Harefield Road which is a very busy thoroughfare through this part of the city, it is considered that any instances of noise disturbance generated by customers visiting the hot food takeaway shall not exacerbate the existing levels of noise disturbance generated by passing traffic.

In terms of smell it is considered that the separation of the property from the nearest residential dwelling by the busy Harefield Road and the actual distance between the buildings in excess of the 30 metre guidance distance is sufficient to ensure that there shall be no significant impact upon the nearest residential occupiers in terms of smell.

b Policy 45 (Location of New Retail Developments)

The proposals shall provide two small shops for the local

residents, particularly for those situated in the area between the Lochee District Centre and the Hilltown District Centre. Their small size means that they will be able to sit comfortably between the two District Centres and their location means that they are located sufficiently far enough way that they will not prejudice the viability of those District Centres

In addition, there is some existing local retail provision in the area on Strathmore Avenue a short walk away in the form of small shopping parade. Neither of these locations would be considered as within the definition of City or District Shopping Centres and are not identified as part of the retail hierarchy within the Dundee Local Plan Review 2005. As a result of the small size of the retail units being proposed it is considered that they would not individually or cumulatively prejudice the vitality and viability of the City Centre or the nearest District Centres. For the reasons set out above, the two small shops being proposed are considered to be acceptable.

c Views of Objectors

Traffic and Parking issues - It will be a hazard for there to be cars parked at a busy junction

The lay-by will lead to illegal parking increasing the dangers at the section of road

These issues have already been discussed in relation to Policy 1 of the Dundee Local Plan Review 2005. It has been concluded that the proposals will not be a significant hazard to the road safety in the area.

Amenity issues - increased noise and litter levels. The closest houses are approximately 30 metres away from the building.

A take away will attract youths to congregate - the issue of noise has been discussed above in relation to Policy 1. In terms of litter it is considered to be appropriate in this instance, particularly given the close proximity to a school, that litter bins should be provided at the

expense of the applicant to the front of the hot food takeaway to discourage littering. This can be attached as a condition to any grant of permission should Members be of a mind to support the application.

The development would have a detrimental impact upon existing shops resulting in job losses in the area - this issue has been discussed in relation to Policy 45 of the Dundee Local Plan Review 2005 and it is considered that the two small shops proposed as part of the application will not have a significant impact upon the viability of the nearest protected District Centres.

d Existing Use Rights as a Public House

The property was most recently in use as a public house and the property therefore has existing use rights as a public house. Such a use would also be in contravention to the distance criteria contained within Policy 53 of the Dundee Local Plan Review. It is considered that a public house use would be likely to generate increased noise levels than the hot food takeaway use being proposed due to the later opening hours and likelihood of patrons smoking outside the premises. The hot food takeaway is proposed to remain open until 10.00pm and by its nature is less likely to generate customers who wish to congregate at the front of the premises to smoke. This would be more likely in the case of a public house.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the approval of planning permission even though the development is contrary to the provisions of the Development Plan. It is therefore recommended that planning permission be granted with conditions.

Design

As discussed, there are limited alterations being proposed to the building. The addition of additional door openings and works to the frontage are considered to be acceptable and will ensure that an

otherwise disused building is brought back into use.

CONCLUSION

It is concluded from the foregoing that the application is acceptable and will not detract visually from the surrounding area or have significant impacts upon shopping provision in the area. It is considered that there will be no significant impacts upon neighbouring properties as a result of the uses, included the hot food takeaway, subject to the use of appropriate conditions.

RECOMMENDATION

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

- 1 Prior to the commencement of development on site, full details of the method of ventilation for the hot food takeaway shall be submitted to and approved in writing by the Council. The approved details shall thereafter be installed and fully operational for the first use of the hot food takeaway.
- 2 The hot food takeaway hereby approved shall operate between the hours of 8.00am and 10.00pm only.
- 3 Prior to the commencement of development on site details of locations, number and type of litter bins which shall be provided at the entrance to the hot food takeaway shall be provided. The bins shall thereafter be installed and available for use prior to the first use of the hot food takeaway.
- 4 The total noise from the extraction system and all other M & E services shall not exceed NR 35 during the night and NR 45 during the day as measured 1 metre external to the facade of adjacent residential accommodation. For the avoidance of doubt daytime shall be 7.00am to 11.00pm and night time shall be 11.00pm to 7.00am.
- 5 Prior to the first use of the building for any of the uses hereby approved the lay-by shall be in situ and available for use.

Reasons

- 1 In order to ensure the amenity of the nearby residential occupiers.
- 2 In order to ensure the amenity of the nearby residential occupiers.
- 3 In order to ensure the amenity of the nearby residential occupiers.
- 4 In order to ensure the amenity of the nearby residential occupiers.
- 5 In order that the lay-by is available for use.