

KEY INFORMATION

Ward Coldsid

Proposal

Erection of a chemist building with dispensary and consultation rooms (Class 1) and storage and distribution facilities (Class 6) and formation of associated vehicle access and car parking

Address

Land to South of Fairmuir Road, Dundee

Applicant

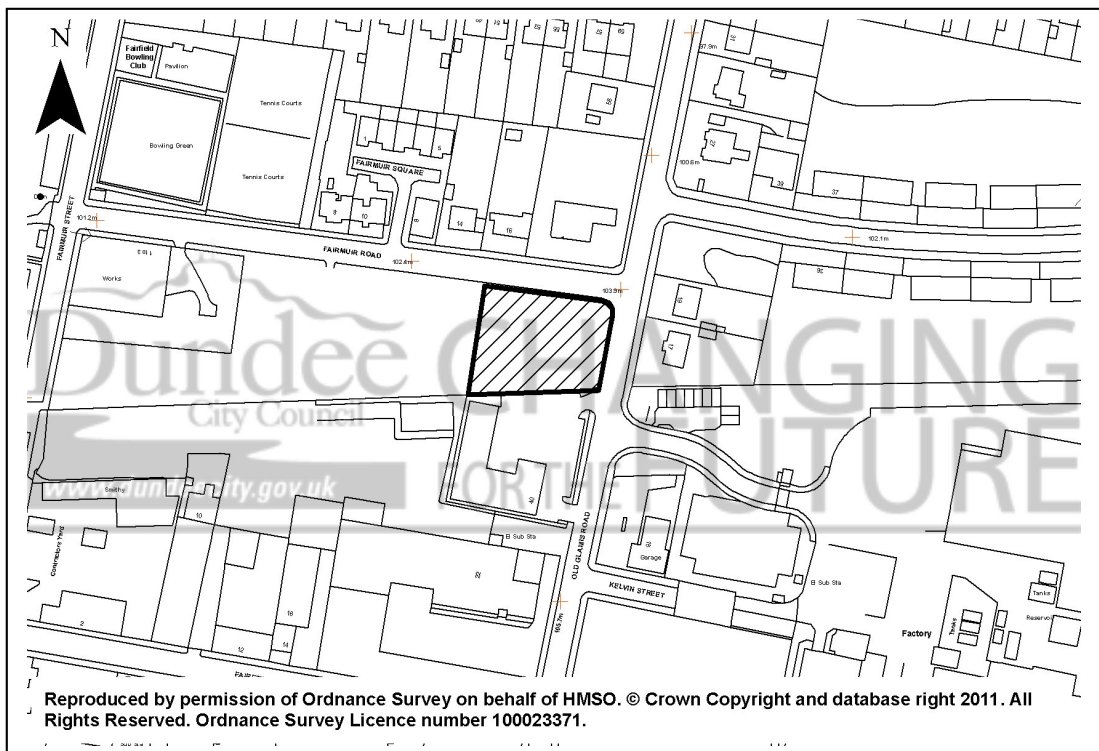
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Registered 27 May 2011

Case Officer P Frickleton



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Pharmacy and Distribution Facility Proposed at Fairmuir Road

The erection of a chemist building with dispensary and consultation rooms (Class 1) and storage and distribution facilities (Class 6) and formation of associated vehicle access and car parking is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

The proposed development is considered to contravene Policy 45 (Location of New Retail Developments) of the Development Plan. However, sufficient weight can be accorded to the material considerations to justify the approval of the development contrary to the provisions of the plan. The application is therefore recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- This application seeks planning permission for the erection of a chemist building with dispensary and consultation rooms (Class 1) and storage and distribution facilities (Class 6) and formation of associated vehicle access and car parking.
- The proposal falls to be considered under Policy 1 (Vibrant and sustainable Communities) and Policy 45 (Location of New Retail Developments) of the Dundee Local Plan Review 2005.
- 14 letters of objection and 1 petition (54 signatures) have been received on the grounds of, amongst other things, residential amenity; road safety; design and need.

DESCRIPTION OF PROPOSAL

The application seeks planning permission for the erection of a chemist building with dispensary and consultation rooms (Class 1) and storage and distribution facilities (Class 6) and formation of associated vehicle access and car parking on the western corner of the site facing onto Old Glamis Road.

The application forms part of an overall site development of the site at Old Glamis Road and Fairmuir Road. A planning application has been submitted to the Council which outlines proposals for the development of the remainder of the site (11/00415/FULL). The further development proposals consist of a twelve bedroom residential care home; six assisted living houses and a storage facility. To date no decision has been made on that application.

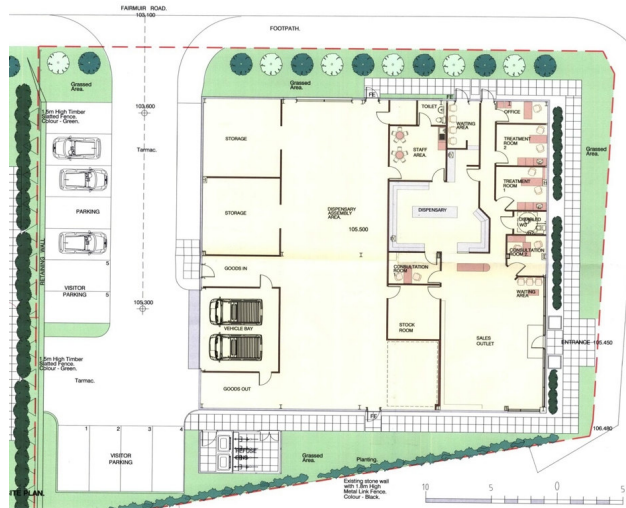
The Pharmacy is a strategic development for Balhousie Care as it will serve the medical needs of the current 22 Care Homes which the group currently operates. The scale of the proposed development for the pharmacy is to allow the capacity required to service the group's ongoing pharmacy requirements.

The proposed building measures 631 square metres. It is a flat roofed single storey building of a modern design. The external finishes will consist of horizontal insulated panels in pearl with a green standing seam. The entrance which faces onto Old Glamis Road will be glazed and have a projecting canopy.

The building consists of a retail area and dispensary for the dispensing and sale of medicines to the general public together with back up facilities including consulting and treatment rooms. These rooms will be used by a variety of health professionals to provide medical advice at a local level. Services such as Chiropodist, Chiropractor, Smoking Suppression Consultancy, Baby Care, Public Health Advisors and general community inoculations will be provided from these rooms. The remainder of the building consists of an assembly and storage area for the dispensing and delivery of prescription

drugs to the wider community and to facilities such as Care and Nursing Homes.

The building is serviced by a vehicle bay for two delivery vans plus eleven staff and visitor parking spaces, plus four cycle spaces, all taking access from Fairmuir Road.



The proposed hours of operation for the pharmacy (retail) unit will be 9.00am - 5.30pm six days a week (Monday to Saturday). The storage and distribution facility may have extended opening hours dependant on demand from 8.00am until 8.00pm at the latest six days a week.

requires to be reported to the Development Management Committee as 14 valid letters of objection and 1 petition (54 signatures) have been received from neighbouring residents.

SITE DESCRIPTION

The application site is located to the west of Old Glamis Road and to the south of Fairmuir Road. The site immediately adjoins an industrial area to the south and west; Fairmuir Park and tennis courts lie further to the west and residential properties to the north and east.

The site forms part of a vacant and derelict former industrial and retail warehouse site. It has lain vacant for over 10 years. The site was predominantly used as a car park, accessed from Old Glamis Road, to serve the former industrial/warehouse buildings to the west of the site.

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 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



If approved this chemist building will replace the existing Clepington Road pharmacy and the existing licence will be transferred to the new building.

In accordance with the Council's scheme of delegation, this application

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; and
- b individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres; and
- c the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres; and
- d the site is readily accessible by modes of transport other than the car; and
- e 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.

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

Two applications have been made for residential development on the site but both were withdrawn due to issues regarding potential noise for future occupants of dwellings due to the location of adjacent industrial uses.

PUBLIC PARTICIPATION

The Council has followed the statutory neighbour notification procedure outlined in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. In addition this application was advertised under the above regulations in the Dundee Evening Telegraph.

14 valid letters of objection and 1 petition (54 signatures) were received from neighbouring residents concerned about residential amenity; road safety; design; need for such premises and Development Plan designation.



The main area of concern has been in relation to a feared influx of methadone/drug users to the area who will be utilising the chemist building.

Members will already have access to these letters and the points raised are considered in the "Observations" section of this Report below.

CONSULTATIONS

The Council's Head of Environmental Protection has requested that should the Committee be minded to grant planning permission, conditions should be imposed to ensure that noise from the mechanical and electrical plant shall not exceed NR45 during daytime and NR35 during night time, as measured 1 metre from the facade of any adjacent residential property. No deliveries, including loading, unloading or lay-up should take place between the hours of 22.00 and 07.00.

Given the historic land use at or in the vicinity of the site concerns have been raised that land contamination may have resulted. The Council's Head of Environmental Protection has requested that a condition be added to

any consent requesting that the Council be notified in writing if any ground contamination is found during construction of the development, and thereafter a scheme to deal with the contamination shall be submitted to, and agreed in writing by, Dundee City Council. The scheme shall include a full timetable for proposed remediation measures. Verification shall be provided by the applicant or his agent, on completion, that remediation has been undertaken in accordance with, and to the standard specified, in the agreed remediation scheme.

NHS Tayside has confirmed that an application from Clepington Road LLP for a minor relocation from 269 Clepington Road to Fairmuir Road is currently under consideration. They have advised that where an applicant intends to relocate to new premises, within the neighbourhood in which the applicant provides pharmaceutical services, the Board must be satisfied that the relocation is a minor relocation. The Board may approve the relocation if and only if:

- the population of the neighbourhood served by the new premises is essentially the same as that served by the existing premises, and the NHS services to be provided are not being reduced, and
- there would be no significant effect on the pharmaceutical services provided by the applicant or any other person whose name is on the Board's pharmaceutical list i.e. no other existing community pharmacy would suffer significant detriment to an extent which would prejudice the continuing ability to provide the NHS services it already provides, and
- the applicant agrees to cease the provision of services at the current premises before commencing the provision of services at the new premises and that person provides NHS pharmaceutical services without interruption or has reached agreement with the Board for a short-term arrangement under its Hours of Service Scheme.

OBSERVATIONS

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.

It is the aim of Policy 1 to support commercial proposals within residential areas that maintain the level of environmental quality afforded to neighbouring properties by virtue of design, layout, parking and traffic movement issues, noise or smell.

The proposed chemist building shall be of a modern design and materials. The building will have a commercial frontage on the eastern elevation facing onto Old Glamis Road and shall be linked to the surrounding streets by the existing public footpath network. In this instance, by virtue of the acceptable layout of the proposed development, the new chemist shall be integrated into the existing residential communities surrounding the application site.

In terms of traffic movement and parking, the proposed chemist shall be serviced by its own access road and 11 parking spaces (6 allocated for visitor parking). The access will be to the rear of the building and shall be accessed from Fairmuir Road. Car parking shall be located to the rear of the building; a footpath links the car park to the front entrance doorway.

The proposed use will have the potential to generate instances of noise disturbance. These issues can be addressed by conditions restricting the hours for deliveries and noise restriction on all electrical and mechanical plant.

The proposed chemist building shall maintain the existing level of environmental quality afforded to neighbouring residential properties. The proposals therefore adhere to the requirements of Policy 1 of the Adopted Local Plan.

In line with the Local Plan the Council adopts the sequential approach to new retail developments (Class 1) with first

preference being town centres which in Dundee's case are the City Centre and District Centres. 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. The application site is not located in either of these areas and as such the second part of the policy will be applicable.

In terms of criterion "a", the application site is situated 0.15 miles from Clepington Road local retail provision and some 0.4 miles from Hilltown District Centre. This location is not considered as within the definition of City or District Shopping Centre and is not identified as part of the retail hierarchy within Dundee Local Plan Review 2005.

The agent has provided evidence that demonstrates that all alternative sites have been explored and that there is no suitable site available within Hilltown District Centre or Albert Street. In their opinion all but two vacant properties were too small, the exceptions being the Hilltown Park building in Main Street which is substantially too large and the last remaining unit in the former supermarket conversion in Strathmartine Road which was not only too large but already had a Boots Pharmacy within the premises.

In their supporting letter the agent also confirmed that a review of the nearby local centre centred on Glamis Road/Clepington Road/Caird Avenue and Provost Road areas concluded that there was 100% occupancy of the retail units, with only one pharmacy, the Clepington Road pharmacy which is intended to be replaced, serving the area. The majority of the retail units are of a similar size to the existing pharmacy and even if available would be unsuitable for conversion to the use proposed. The search for suitable premises/sites was extended beyond the local retail area and only identified two small industrial units within the adjacent industrial estate being leased by Dundee City Council. The use of these premises as a pharmacy would be in conflict with the industrial use of the rest of the industrial site.

The option of splitting the development into various elements and not locating all uses within the one building has been explored. However, due to strict controls over the licence this is not possible as a second licence would not be issued by NHS to cover a split operation.

Although the agent has provided evidence to suggest that all alternative sites have been explored it may still be that alternative options such as subdivision are still available, therefore the proposal is contrary to this part of the Policy. However, Albert Street and Hilltown District Centre are both adequately served by existing pharmacies and under NHS regulations even if a suitable site were available it would not be approved by NHS. given the present coverage in these areas.

Criterion "b" of this policy states that proposals must not prejudice the vitality and viability of the City Centres or District Centres. The nearest District Centre is Hilltown which is outwith the area to be served by the proposed pharmacy and which is served by, amongst others, a new Boots pharmacy at 140 Strathmartine Road.

The approval of this application would lead to the closure of the existing pharmacy at 269 Clepington Road creating a vacant unit in the Clepington Road local retail area. However, it is likely that the unit will not remain vacant for long as the applicant is in receipt of a letter from a local retailer who wishes to rent the property at 269 Clepington Road as an extension to their current takeaway and catering business. There is a further pharmacy at 92 Clepington Road which will remain open.

Criterion "c" stated that it must be established that the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres in order to be considered acceptable. The proposal addresses a deficiency within the Clepington Road local retail provision and not the nearby District Centres in Hilltown and Albert Street, both these areas are adequately served by existing pharmacies.

The letter of support submitted with the application states there is a need to upgrade the facilities offered by the existing pharmacy in Clepington Road to modern standards and that the

proposed site is the only suitable land available within the local catchment area to accommodate a new chemist building.

In their justification the agent has provided information from the NHS, which states that the provision of Pharmacies is strictly controlled to ensure an even spread of facilities and to ensure that an appropriate number of Pharmacies are provided for the foreseen demands. The current Pharmacy at 269 Clepington Road is not seen as being "fit for purpose" as it can not provide the local health community services by the provision of consulting rooms and treatment rooms. The relocation of the current facilities is therefore required to comply with current NHS standards and to ensure the community benefits from the additional medical services that will be provided from the facility.

Criterion "d" states that proposals must be readily accessible by modes of transport other than the car. The site is within walking distance of many houses since it is located close to a predominantly residential area. In addition to this it is located on a local bus route. It is therefore considered that the proposal complies with criterion "d" of Policy 45.

Criterion "e" of Policy 45 states that proposals will only be acceptable where they are consistent with other Local Plan Policies. As discussed above the proposal complies with other Local Plan policies.

It is concluded from the foregoing that the proposal contravenes Policy 45 of the Development Plan.

Other Material Considerations

The other material considerations to be taken into account are as follows:

Out of Centre Retail Provision - the application does not fully assess available sites within the City Centre or District Centre as required by Policy 45 criteria "a". However, given the nature of the proposal and its strategic aim to serve 22 care homes throughout the east of Scotland it is unlikely that a suitable site can be found within the District Centre that would serve their needs.

For the reasons detailed in the Consultation Section above, should the Committee be minded to approve this application, the proposed pharmacy

will replace the existing Clepington Road pharmacy and the existing license will be transferred to the new building. This has already been the case in Hilltown District Centre where the original pharmacy in Strathmartine Road was closed as a consequence of the new Boots pharmacy opening at 140 Strathmartine Road. Therefore, in order to further protect the existing shopping provision within the City Centre and District Centres it is preferential that the existing pharmacy at 269 Clepington Road be closed rather than an existing business within a protected area. It is the aim of Policy 45 to protect these centres and businesses within them.

Although the application does not fully address deficiency in shopping provision in the city, the proposed facility will serve the medical needs of the Balhousie Care groups 22 care homes in Dundee, Angus and Fife providing care to over 800 residents. The location of this facility in Dundee will bring benefits to the city including the creation of 10/15 jobs in the pharmacy as well work for local contractors during the construction phase.

Despite the development not fully complying with Policy 45 of the Development Plan the above material considerations justify approval of this application.

Concerns of Objectors - 14 letters of objection and one petition have been received from neighbouring residents concerned about:

Residential Amenity

- methadone use/drug addicts in close proximity to tennis courts and play park used by local children;
- older and vulnerable residents feel threatened by influx of methadone users to the area;
- proposal will attract undesirables - influx of drug addicts to the area will have a significant impact on the local area;
- increase in crime due to drug users frequenting the area; and
- noise nuisance.

Whilst public anxiety about threat to health and safety can be a material consideration, in this case there is no basis for these fears as the proposal is

for a standard pharmacy and not geared towards any particular user group. There is no reason to assume that the proposed pharmacy will attract an unusual number of drug users and any issues regarding the assumed behaviour of the clientele of the proposed chemist cannot be taken into consideration.

The proposed chemist building will have the potential to generate instances of noise disturbance. These issues can be addressed by conditions restricting the hours for deliveries and noise restriction on all electrical and mechanical plant.

Road Safety Concerns

- Increase in traffic where there is already inadequate parking.

The development provides adequate parking to the rear of the premises, accessed from Fairmuir Road.

Design

- Poor, unimaginative and uninspired design.

The proposed chemist building will be of a modern design and materials which is acceptable at this location. The building has been designed in this way to accommodate pharmacy use and the security issues involved with the storage and distribution of pharmacy drugs.

Economic

- Development unnecessary as there are already three chemists in the local area including existing premises in Clepington Road and adequate facilities at Boots on Strathmartine Road.

These concerns have been addressed in the assessment of the application under Policy 45 of the Dundee Local Plan Review 2005.

- De-value house prices - concerns relating to property values are not material planning considerations and as such have not been taken into account in the assessment of the proposals against the Development Plan.

Development Plan

- Application site designated for industrial use; and
- Site designated as a housing site.

The site is not allocated for any specific use within the Dundee Local Plan Review 2005. Two applications were previously made for residential development but both were withdrawn.

Other

- Balhousie Care Group not a sound reliable business.

Concerns relating to the reliability of the business are not material planning considerations and as such have not been taken into account in the assessment of the proposals against the Development Plan.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations to justify the approval of the development contrary to Policy 45 of the Development Plan. The concerns of the objectors are not of sufficient weight to justify the refusal of planning permission.

Design

The proposed building measures 631 square metres. It is a flat roofed single storey building of a modern design. The external finishes will consist of horizontal insulated panels in pearl with a green standing seam. The entrance which faces onto Old Glamis Road will be glazed and have a projecting canopy. The building has been designed in this way to accommodate pharmacy use and the security issues involved with the storage and distribution of pharmacy drugs. It is considered that the design of the proposed development is satisfactory for this location.

CONCLUSION

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations to justify the approval of the development contrary to Policy 45 of the Development Plan. 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 retail area of the building shall be used as a chemist only and for no other use including any other within Class 1 of the Schedule to the Town and Country Planning (Uses Classes) (Scotland) Order 1989 as amended or re-enacted.
- 2 The total noise from the mechanical and electrical plant shall not exceed NR45 during daytime, and shall not exceed NR35 during night time as measured 1 metre from the facade of any adjacent residential property. For the avoidance of doubt NR45 is applicable for the period 07.00 to 23.00 hours and NR35 is applicable for 23.00 to 07.00 hours.
- 3 No deliveries including loading, unloading or lay-up shall take place between 22.00 and 07.00 hours.
- 4 Any existing site accesses that are no longer required as part of the proposed development must be made good as footway to Dundee City Council specifications. Details of these alterations must be agreed prior to any works on site.
- 5 The Council shall be immediately notified in writing if any ground contamination is found during construction of the development, and thereafter a scheme to deal with the contamination shall be submitted to, and agreed in writing by, Dundee City Council. The scheme shall include a full timetable for the remediation measures proposed. Verification shall be provided by the applicant or agent, on completion, that remediation has been undertaken in accordance with, and to the standard specified in, the agreed remediation scheme.

Reasons

- 1 To protect the vitality and viability of the District Centres. Unrestricted use under Class 1 of the Schedule to the Town and Country Planning (Uses Classes) (Scotland) Order 1989 would fail

to comply with Policy 45 of the Dundee Local Plan Review 2005.

- 2 In the interests of preventing significant instances of noise disturbance from occurring.
- 3 In the interests of preventing significant instances of noise disturbance from occurring.
- 4 In the interests of pedestrian safety.
- 5 In order to ensure the site is suitable for the use proposed.