

Licensed Off Sales Shop at City Road

KEY INFORMATION

Ward West End

Address

116-118 City Road
Dundee
DD2 2PW

Applicant

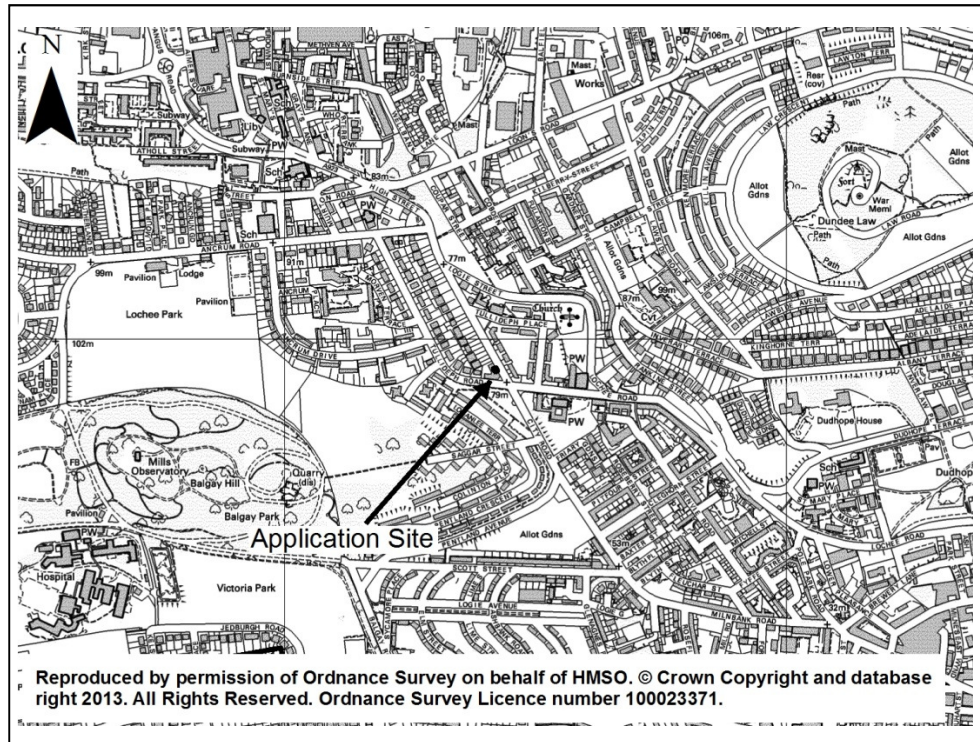
Vikas Jain
32 Upper Constitution Street
Dundee

Agent

Davidson Property Services
49 Yeaman Street
Carnoustie
DD7 7AW

Registered 24 May 2013

Case Officer P Frickleton



SUMMARY OF REPORT

- The application seeks planning permission to change the use of the premises from wholesale dispensing store to licensed off sales shop.
- The proposal falls to be considered under Policies 1 (Vibrant and Sustainable Communities) and 42 (Local Shopping) of the Dundee Local Plan Review 2005.
- Twenty valid letters of objection have been received and two petitions (29 signatures in total) from neighbouring residents on the grounds of overprovision, anti-social behaviour; residential amenity; legal/policy issues and traffic issues.
- The application is required to be referred to the Development Management Committee for determination as twenty valid letters of objection and two petitions have been received from neighbouring residents and the application is recommended for approval.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=MN9369GC03500>.

RECOMMENDATION

The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, the application is recommended for APPROVAL subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for a change of use from wholesale dispensing store to licensed off-sales shop. No external alterations are proposed to the exterior of the building, this will be the subject of a separate planning application should the change of use be granted. It is purely the change of use to retail that requires planning permission and not the licensed element of the proposal; this shall be determined separately by an application to the Licensing Committee.
- 1.2 In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee for determination as twenty valid letters of objection and two petitions have been received from neighbouring residents and the application is recommended for approval.

2 SITE DESCRIPTION

2.1 The application site is located on the western side of City Road on the northern corner of the junction between City Road and Tullideph Road.

2.2 The site comprises of a commercial unit within a small parade of shops with residential flatted properties above (see figure 1). The shopping parade is centrally located within a residential area, which has a high concentration of sheltered and special needs housing. There is a small service yard to the rear of the shops, vehicular access to which is taken from City Road. The adjoining unit to the north is vacant with a newsagent in the unit further north and a charity shop to the south on the corner of City Road/Tullideph Road. The remaining units which face onto Tullideph Road consist of a hair/beauty salon, general store and hot food takeaway.

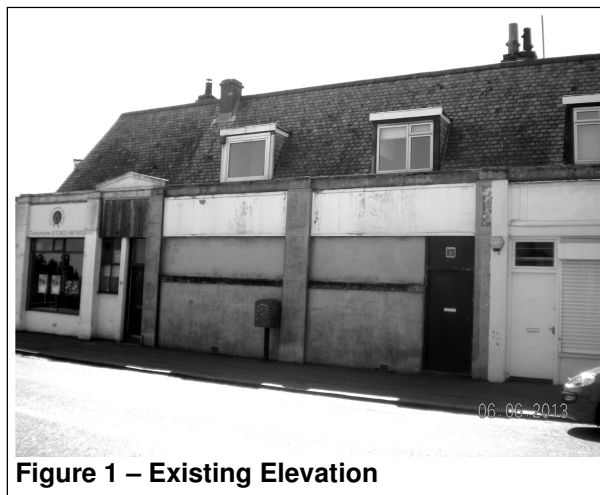


Figure 1 – Existing Elevation

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

DUNDEE LOCAL PLAN REVIEW 2005

Policy 1: Vibrant and Sustainable Communities

Policy 42: Local Shopping

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN

Policy 16: Small Scale Commercial Uses within Residential Areas

Policy 26: Local Shopping Provision

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 There is no planning history of relevance to the outcome of this application.

5 PUBLIC PARTICIPATION

- 5.1 The Statutory Neighbour Notification was carried out and as a result 20 letters of objection have been received, which contained at least one valid planning ground, and two petitions (29 signatures in total) from neighbouring residents on the grounds of overprovision, anti-social behaviour; residential amenity; legal/policy issues and traffic issues.
- 5.2 Members will already have access to the letters of objection and petitions and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

- 6.1 **The Head of Environmental Protection** – has requested that, should Committee be minded to approve the application, a noise condition be added restricting total noise from any mechanical and electrical plant to NR45 during daytime and NR35 during night-time as measured 1 metre from the façade of any adjacent residential property. Furthermore, it shall not exceed NR25 within any adjoining residential property

7 DETERMINING ISSUES

- 7.1 **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.

DUNDEE LOCAL PLAN REVIEW 2005

- 7.2 **Policy 1 – Vibrant and Sustainable Communities** – seeks to promote vibrant communities. 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.
- 7.3 In relation to design as the proposal does not involve any external alterations at this stage design is not a pertinent issue in consideration of this application.
- 7.4 The property does not benefit from any off-street parking and there are no proposals to provide any parking within the site, however this is the case for the majority of independent retail units within the area. The unit is located within an area where there are not significant parking pressures. Therefore, due to the nature and scale of the business there is unlikely to be an issue with parking and traffic movement in the area.

- 7.5 Due to the proximity to residential property it is considered that, if the application were to be approved, conditions to limit noise from any mechanical and electrical plant would be required. It is considered that this matter could be adequately controlled in this way.
- 7.6 There are no issues of smell arising from the proposed use.
- 7.7 Policy 1 also requires that new developments should be in accordance with other policies in the Local Plan. As discussed below it is considered that the proposed development complies with policy 42 of the Local Plan therefore the proposal complies with Policy 1.
- 7.8 The application is therefore considered to be in accordance with Policy 1 of the Dundee Local Plan Review 2005.
- 7.9 **Policy 42 – Local Shopping** – supports measures for the upgrading of existing shopping provision within shopping parades and where appropriate, the provision of additional shopping floor space up to a maximum of 500m² gross.
- 7.10 The proposed development will upgrade a vacant unit within the existing shopping parade, once upgraded it will provide an additional 43m² of retail floorspace. The Council therefore consider that.
- 7.11 **The proposal satisfies the requirements of Policy 42 of the Dundee Local Plan Review 2005.**

OTHER MATERIAL CONSIDERATIONS

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

(A) PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN

- 7.12 Policy 16 (Small Scale Commercial Uses within Residential Areas) and Policy 26 (Local Shopping Provision) of the Proposed Dundee Local Development Plan are substantially the same as Policies 1 and 42 of the Dundee Local Plan Review 2005 that has been assessed above. As such, it is considered that the requirements of Policies 16 and 26 of the Proposed Dundee Local Development Plan are also satisfied.

(B) VIEWS OF OBJECTORS

Neighbouring residents have raised concerns on the grounds of:

- 7.13 Residential Amenity:
- increase in litter;
 - detrimental impact on local neighbourhood; and
 - potential for noise and disruption.
- 7.14 Whilst public anxiety about behavioural noise, litter and impact on the local neighbourhood can be a material consideration, in this case there is no basis for these fears as the planning application is purely for the change of use to retail use and not the licensed element. There is no reason to assume that the proposed retail unit will attract additional noise or litter or have a detrimental impact on the local neighbourhood and any issues regarding the assumed behaviour of the clientele of the proposed retail unit cannot be taken into consideration. In this instance the views of the objectors are not supported.

7.15 Anti-social behaviour:

- open ground/alley to rear of shops will become drinking den;
- vandalism;
- issues of anti-social behaviour/nuisance/vandalism;
- clientele would threaten the physical and mental security of elderly residents; and
- adverse effect on community as majority of people in area are elderly and/or have special needs.

7.16 Members of the local community have genuine fears over anti-social or challenging behaviour. Whilst these concerns are a material consideration the weight to be given to them needs to be tempered by the nature and scale of the proposed use. As planning permission is only required for the change of use to retail use and not the licensed element the views of the objectors are not supported in this instance.

7.17 Concentration of Uses:

- overprovision of licensed premises in area; and
- licence applications for 124 City Road and 17/19 Tullideph Road were recently refused on ground of over provision.

7.18 As discussed above planning permission is only required for the change of use to retail use and not the licensed element therefore the views of the objectors are not supported in this instance. The number and location of licensed premises shall be looked at as part of the licence application. As discussed above the proposal complies with Policy 42 (Local Shopping) of the Development Plan which supports measures for the upgrading of existing shopping provision within shopping parades and where appropriate, the provision of additional shopping floor space up to a maximum of 500m² gross. The views of the objector are not supported on this occasion.

7.19 Legal/Policy Issues:

- title deeds prohibit sale of malt, spirituous or intoxicating liquors; and
- proposal goes against the Government's overall aim to reduce alcohol consumption and harm.

7.20 The concerns over title deeds are a legal issue and as such are not considered to be a material consideration in the determination of this application. Government policy with regards to reducing alcohol consumption and harm will be a consideration of the licence application which will be dealt with separately by the Licensing Committee. The views of the objector are not supported in this instance.

7.21 Traffic Issues

- increase in vehicular activity; and
- lack of parking.

- 7.22 Given the size of the retail unit it is considered that the number of vehicles likely to visit the application site will not be so significant as to adversely impact on road traffic pattern or parking in the area. In this instance the concerns of the objectors are not supported.
- 7.23 The views of the objectors are not supported.
- 7.24 **It is concluded from the foregoing that the material planning considerations which weight against the proposal are not of sufficient weight to suggest that the Development Plan should not be accorded the priority which the statute has given it.**

8 CONCLUSION

- 8.1 The proposal complies with the Development Plan and there are no material considerations that would justify the refusal of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

- 9.1 It is recommended that consent be GRANTED subject to the following conditions:
- 1 The total noise from any mechanical and electrical plant shall not exceed NR45, during daytime and shall not exceed NR35 during night-time as measured 1 metre from the façade of any adjacent residential property. Furthermore it shall not exceed NR25 within any adjoining residential property. For the avoidance of doubt NR45 is applicable for the period 07:00 to 23:00 and NR35 and NR25 are applicable for 23:00 to 07:00 hours.

REASONS

- 1 In the interests of safeguarding residential amenity.