

Part Change of Use to a Hot Food Takeaway

KEY INFORMATION

Ward Strathmartine

Address

530 Strathmartine Road
Dundee DD3 9BR

Applicant

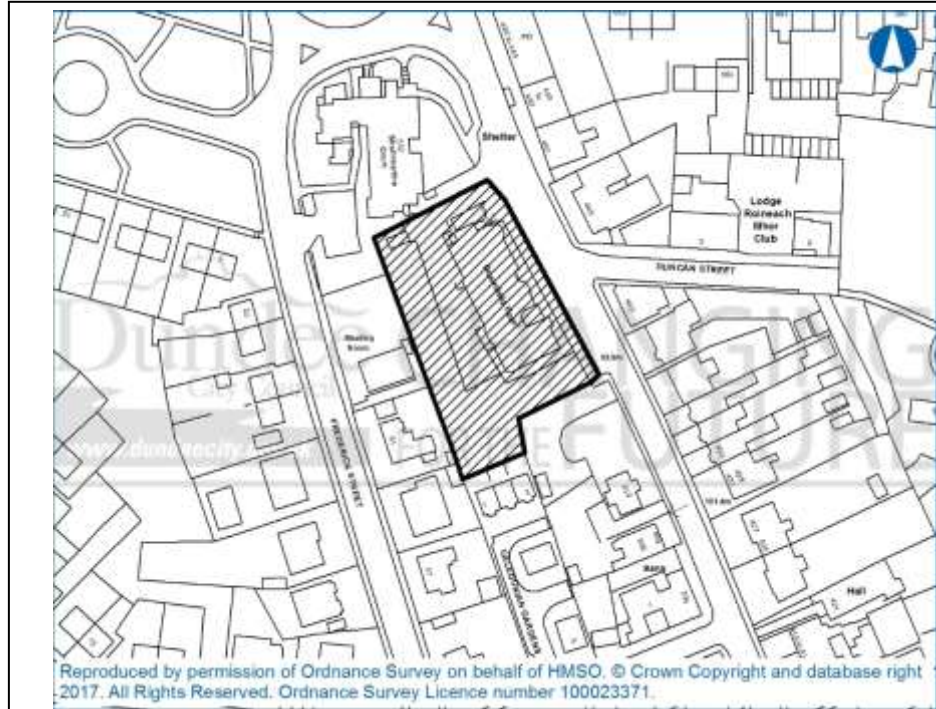
Mrs Amanda Mitchell
530 Strathmartine Road
Dundee DD3 9BR

Agent

Jon Frullani
Unit 5 District 10
25 Greenmarket
Dundee DD1 4QB

Registered 14 April 2017

Case Officer S Dorward



SUMMARY OF REPORT

- Planning permission is sought for a part change of use to a hot food takeaway within an existing public house.
- The statutory neighbour notification procedure has been undertaken and 6 letters of objection have been received.
- The application complies with the development plan, there are no material considerations that would justify the refusal of planning permission.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee because 6 valid written objections have been received.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=OOEHHEGCLPP00>.

RECOMMENDATION

The application complies with Policies 28, 47 and 55 of the adopted Dundee Local Development Plan, 2014. There are no material considerations that would warrant refusal of planning permission. The application is therefore recommended for APPROVAL subject to conditions.

1 DESCRIPTION OF PROPOSAL

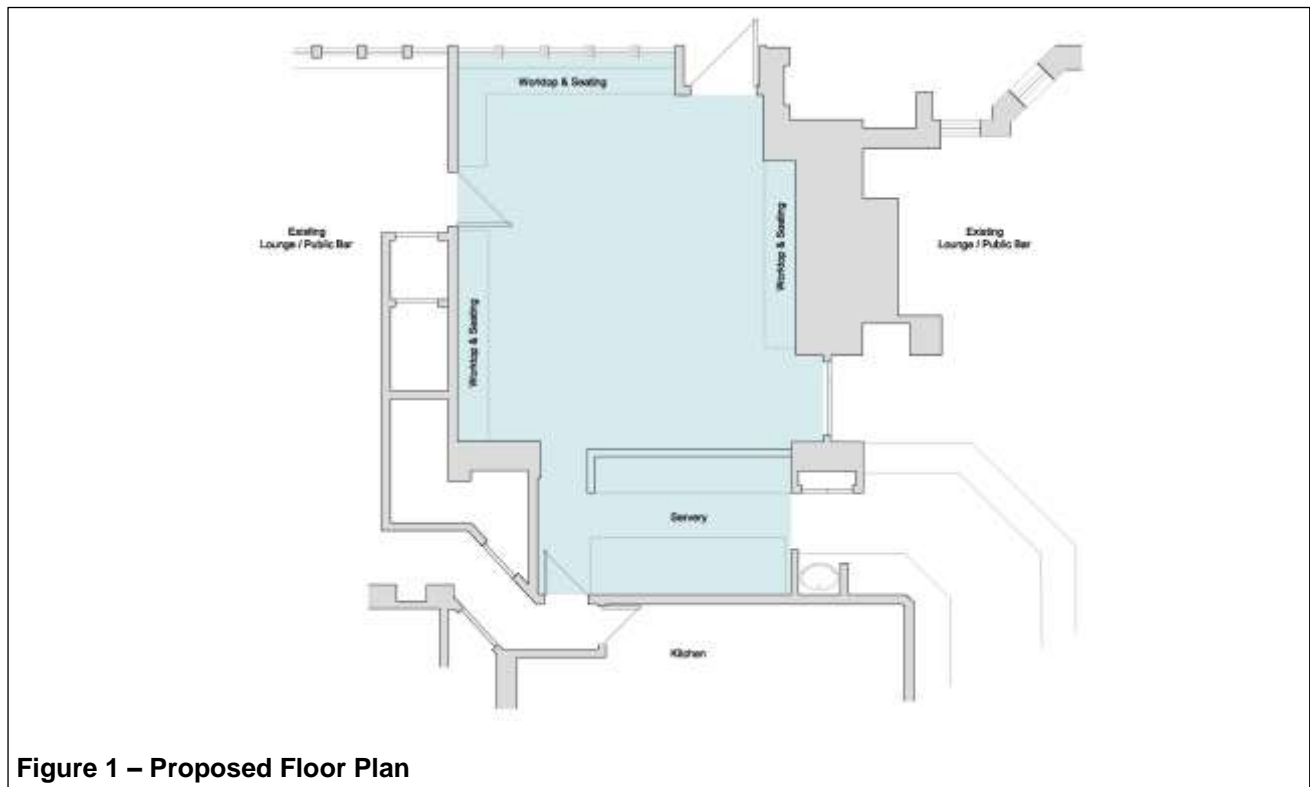


Figure 1 – Proposed Floor Plan

1.1 The application seeks planning permission for a part change of use to include a hot food takeaway as part of an existing public house. The hot food takeaway is proposed with an internal floor area of 42m², with seating for 15 persons. Opening hours are specified as 10.00am to 7.00pm Monday to Saturday. The application is retrospective and the takeaway is fully operational.

2 SITE DESCRIPTION

2.1 The application site measures 2,650m² and relates to the existing public house and restaurant, known as the Downfield, at 530 Strathmartine Road, to the north of the Kingsway. More specifically, the application refers to "DOCS deli", a takeaway area within the premises. The site is not located within a District Centre as per the adopted Dundee Local Development Plan, 2014. Surrounding adjacent land uses are residential and commercial, with sheltered housing located to the immediate north of the application site.



Figure 2 – Site Photo

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN

Policy 28: Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre

Policy 47: Environmental Protection

Policy 55: Accessibility of New Developments

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 Planning application 04/00703/COU approved a change of use of part of the car park for the Downfield Hotel to a beer garden in October 2004, this permission was not implemented.

4.2 Retrospective planning permission was then granted in October 2010 for the erection of a small area of decking measuring 39m², and fencing to the north of the hotel, conditioned to be operational for patrons between 11.00 am (12.30 on Sundays) and 8.00pm (9.00pm July and August).

4.3 Planning application 10/00565/FULL approved a small extension to the southern elevation of the property in October 2010.

4.4 A change of use of part of the car park to a beer garden was then refused under planning application 10/00565/FULL in November 2010.

4.5 Planning application 15/00780/FULL for a change of use to include a hot food takeaway with a separate kitchen and unrestricted opening hours was refused in February 2016. This application was refused because it was contrary to policy due to the proposed hours of operation.

5 PUBLIC PARTICIPATION

5.1 Six letters of objection were received. Objection comments include letters from five individuals and one from the residents of the neighbouring care home. Issues raised relate to parking and access, road safety, residential amenity in terms of noise and litter, proximity to local school and school children entering the pub, and proliferation of other takeaways within the area.

6 CONSULTATIONS

6.1 **The Head of Community Safety and Protection** – has no comments to make in terms of noise or odour.

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 DEVELOPMENT PLAN

- 7.2 **Policy 28: Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre** - supports public houses, restaurants and hot food takeaways, including beer gardens and extensions to existing operations, outside District Centres only where the proposal is more than 30 meters from existing or proposed housing and where the premises has a gross floor area of up to 150 square metres. If the floor area would be over 150 square metres, then a 45 metre separation would be required. These distances are measured from the curtilage of the proposal to the facade of the existing houses.
- 7.3 The floor space of the area currently under consideration for a change of use measures 42m², and there is a separation distance from adjacent residential properties of less than 30 metres, and as little as 5 metres from neighbouring residential properties in places. In this situation, a hot food takeaway may be permitted under the terms of Policy 28 subject to the hours of operation being limited to 7.00am and 7.00pm, and the hot food requiring heating by means only of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.
- 7.4 In this case, the proposed hours of operation would be from 10.00am to 7.00pm, which would be acceptable for a distance of less than 30 metres from adjacent residential properties. The agent has also stated that the applicant intends to remove the existing kitchen and cooking facilities from within the takeaway area for conversion to a servery. It is proposed that the takeaway facility would use the existing kitchen and extraction facilities within the public house/restaurant. The use of the existing kitchen facilities would not exacerbate the current situation to the extent that there would be any additional impact on amenity. With the addition of planning conditions to restrict the hours of operation and ensure that cooking would only be undertaken using existing facilities, the proposals would comply with the terms of Policy 28.
- 7.5 **With the addition of planning conditions, the proposal would comply with Policy 28.**
- 7.6 **Policy 47: Environmental Protection** - requires all new development that would generate noise, vibration or light pollution demonstrates that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New development in close proximity to existing sources of noise, vibration or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on the viability of existing businesses or uses.
- 7.7 As the development proposes to use the existing cooking and ventilation system operated by the hotel restaurant, and the hours of operation would be within the existing hours of the pub/restaurant, there would be no increased effects in terms of noise or odour to the surrounding area. Planning conditions are proposed to restrict any additional cooking and to restrict the hours of operation proposed.

- 7.8 **With the addition of planning conditions, the proposal would comply with Policy 47.**
- 7.9 **Policy 55: Accessibility of New Developments** - seeks to ensure that all development proposals which generate travel should be designed to be well served by all modes of transport, and requires proposals to link to walking, cycling and public transport networks, have no detrimental impact on the capacity of existing road networks and comply with Dundee City Council's road design standards.
- 7.10 In this instance, the hot food takeaway would be accessible by all means of transport. The proposal is within an established commercial area where there is a lay-by adjacent to the site for deliveries and/or customer car parking. There is an existing car park to the rear of the premises. The level of traffic generated by this type of development is relatively low and it is anticipated that there would be no detrimental impact in terms of road safety.
- 7.11 **The proposal satisfies Policy 55.**
- 7.12 **It is concluded from the foregoing that the proposal complies with the provisions of the development plan.**

OTHER MATERIAL CONSIDERATIONS

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

VIEWS OF OBJECTORS

- 7.14 Six letters of objection were received, including comments from five individuals and on letter from the residents of the neighbouring care home. Issues raised relate to parking and access, road safety, residential amenity in terms of noise and litter, proximity to local school and school children entering the pub, and proliferation of other takeaways within the area.
- 7.15 In relation to parking and road safety issues, the existing car park to the rear of the premises and adjacent lay-by are considered to be adequate given the low level of additional traffic likely to be generated. The site is also accessible by other means of transport.
- 7.16 With regard to residential amenity concerns, the Head of Community Safety and Protection has raised no issues with regard to noise or odour.
- 7.17 Issues raised in relation to business competition and children entering the public house are not material planning considerations.
- 7.18 **The concerns of the objectors are not of sufficient weight to justify refusal of the application.**

8 CONCLUSION

- 8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. It is therefore 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 **Condition** - no cooking shall be carried out on the takeaway premises unless otherwise agreed in writing with Dundee City Council as Planning Authority.

Reason - in the interests of residential amenity; to ensure that odour from the premises does not affect adjacent residents.

- 2 **Condition** - the premises shall be open to the public between 10.00am and 7.00pm Monday to Saturday only.

Reason - in the interests of residential amenity; to prevent noise disturbance to adjacent residents.

- 3 **Condition** - the takeaway facility hereby approved shall have a gross floor area not exceeding 42m² and shall remain entirely ancillary to the pub/restaurant facility.

Reason - in the interests of safeguarding residential amenity.