

III PLANNING APPEAL DECISION

Planning Application 22/00533/FULL - 54B East Dock Street

There was submitted Agenda Note AN10-2023 advising the Committee that Planning Application 22/00533/FULL sought planning permission to change the use of a car wash building to a drive-thru coffee shop at 54B East Dock Street. The application was refused by the Planning Committee at its meeting on 24th October, 2022 for the following reasons:-

1. The proposal is contrary to Policy 1 of the Dundee Local Development Plan (2019) because the proposed development fails to prioritise and encourage sustainable and active travel choices, such as walking, cycling and public transport and is contrary to Criterion 3 of Appendix 1 - High Quality Design and Placemaking. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
2. The proposal is contrary to Policy 3 of the Dundee Local Development Plan (2019) because the proposed drive-thru coffee shop use does not fall within the defined Use Classes 4, 5 and 6 that Development Plan policy aims to direct to Principal Economic Development Areas, in the interests of safeguarding employment and business land from other development pressures. The proposed development would introduce other development pressures into a Principal Economic Development Area where the Development Plan seeks to safeguard that land for employment use and this is contrary to Policy 3. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
3. The proposal is contrary to Policy 6 of the Dundee Local Development Plan (2019) because the proposed drive-thru coffee shop is not small-scale and goes beyond the ancillary nature of complementary land uses that Policy 6 is seeking to permit in Economic Development Areas. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
4. The proposal is contrary to Policy 21 of the Dundee Local Development Plan (2019) because it has not been reasonably demonstrated that there are no sequentially preferable options available, that the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres or Commercial Centres, or that the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.

5. The proposal is contrary to Policy 54 of the Dundee Local Development Plan (2019) because the development would not minimise the need to travel by private car. There are no material considerations of sufficient weight that would justify approval of the application contrary to the Development Plan.
6. The proposal is contrary to Policy 56 of the Dundee Local Development Plan (2019) because the proposal is a commercial development at an out-of-town location, but does not provide covered secure cycle parking with changing facilities for employees.

Planning appeal reference PPA-180-2069 was submitted and the Reporter appointed by Scottish Ministers issued a decision on 3rd March, 2023. **The Reporter's decision was to DISMISS the appeal and REFUSE PLANNING PERMISSION.**

The Reporter reached similar conclusions to the reasons for refusal in respect of sustainable transport as it would not minimise the need to travel by private car.

The Reporter concluded that the site's use as a car wash was already "non-conforming" in terms of its policy designation and therefore the proposal would not have any material impact on the availability of employment land for Class 4, 5, and 6 uses.

The Reporter concluded that the whilst there was potential for use by some employees on their way to or from work nearby, this would be incidental to the main aim of capturing passing trade from the A92 and it was therefore in conflict with LDP Policy 6 as it was not a small-scale ancillary service which could be demonstrated to meet the needs of employees.

On the issue of conflict with the town centre first principle, the Reporter concluded that given the absence of any customer facilities in the proposal, it would be unlikely to draw significant trade from coffee shops within the city centre or other defined centres, or harm the vitality and viability of these centres.

When considering whether there was any support for this use in this location, the Reporter considered LDP Policy 27 and concluded that the policy intent was to support proposals of a scale and nature that would principally serve a local catchment, and hence would not be more appropriately located in an existing centre. In this case, the lack of customer facilities and the primary customer base of passing vehicular traffic means the proposal was qualitatively different from a neighbourhood coffee shop serving local demand and therefore it was not supported by LDP Policy 27.

The Reporter considered the various policies contained within the National Planning Framework 4 - adopted after the appeal was submitted - and the advice to local planning authorities contained within the Chief Planner's letter. Of note was NPF4 Policy 27 which indicated that drive-thru developments would only be supported where they were specifically supported in the LDP. The Chief Planner's letter advised this should not be taken as a moratorium or a ban on such developments, and the facts and circumstances of each case should be considered. In this case, the Reporter noted that the LDP neither supported nor resisted drive-thru's in themselves, which could involve a wide range of uses, not just coffee shops. But having considered the proposal against LDP Policies 6 and 27, the Reporter concluded the proposal was not actively supported by either of them due to its particular characteristics. In the absence of any other specific policy support for a development of this nature at this location, he concluded that the principle of the proposal was contrary to NPF4 Policy 27 in this respect.