

KEY INFORMATION

Ward Tay Bridges

Proposal

Change of use from Class 1 Retail to Class 3 Restaurant, including carry out facility and elevational alterations

Address

1A High Street
Dundee
DD1 1SX

Applicant

Tricon Restaurants
International
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Agent

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Registered 18 Feb 2002

Case Officer Gordon Reid



Proposed Kentucky Fried Chicken Restaurant in High Street

The change of use from Class 1 Retail to Class 3 Restaurant and elevational alterations is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation.

RECOMMENDATION

It is considered that the proposed change of use to a restaurant including carryout facility and elevational alterations is in accordance with the policies of the development plan.

The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for a change of use from Class 1 (Retail) to Class 3 (Restaurant) including carryout facility and elevational alterations at 1A High Street, Dundee.
- The proposal raises issues for consideration in terms of the Retail, Leisure and Tourism and Built Environment Policies of the Dundee Local Plan 1998. In addition, the proposal raises issues for consideration in terms of the Non-Statutory Policies contained in Report 440/98 "Review of Local Plan Policies on Licensed Premises and the Sale of Hot Food".
- A single letter of objection was received from the Provost of St Paul's Cathedral raising concerns with regard to the visual impact on the setting of the Cathedral and the surrounding area and problems of anti-social behaviour and litter.
- It is considered that the proposal is in accordance with the Retail, Leisure and Tourism and Built Environment Policies of the Dundee Local Plan 1998. In addition, it is considered that the concerns raised in the letter of objection are not sufficient to warrant refusal of the application and can be covered by conditions.

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from Class 1 (Retail) to Class 3 (Restaurant) including carryout facilities and elevational alterations at 1A High Street, Dundee.

The applicants have submitted a letter in support of their application, which sets out details on the operation of the proposed restaurant.

They advise that the proposed hours of operation are to be 0900 to 2300hrs Sunday to Thursday and 0900 to Midnight on Friday and Saturday. Deliveries are expected to be no more than 3 times a week between the hours of 0900 to 1800hrs. These will take place to the rear of the premises via the pend and close from Castle Street.

They also indicate that it is company policy to operate a strict management regime to ensure that the area surrounding the premises will be regularly inspected and any litter cleared away as and when required.

The applicants have also confirmed that the restaurant is to be operated by Kentucky Fried Chicken.

SITE DESCRIPTION

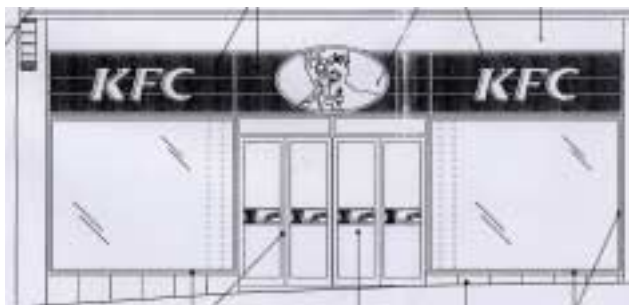
The application site is located on the south side of the High Street and is to the east of the junction with Castle Street. The premise is a ground floor shop unit, which is currently vacant but was previously occupied by "House Works". The application unit forms the ground floor to two separate buildings, both of which are listed. The eastern side is a late 19th century, 4-storey, plain baronial-detailed tenement building and is category "C"(s). The western side is a Circa 18th century with classical embellishments. The building is a 4-storey attic, classically detailed former hotel. The upper floors of the building are vacant but were formerly student residences. To the east of the site is St Paul's Cathedral, which is a category "A" listed building. To the north is the High Street with retail premises in the properties opposite. To the west of the site is the retail premises occupied by the Bakers Oven and to the south are various outbuildings to properties in High Street and Castle Street.

POLICY BACKGROUND

There are no National or Structure Plan policies of relevance to the consideration of the application.

Dundee Local Plan 1998: Retailing Policy S5 is of relevance to the consideration of this application. Policy S5 advises that non-retail activities within Classes 1, 2 and 3 of the Town and Country Planning (Use Classes) Order 1997 will generally be acceptable in ground floor premises.

Leisure and Tourism Policy LT8 is also of relevance and seeks to resist premises selling hot food within 45 metres of existing or proposed housing. The preamble to this policy does advise that these requirements may be relaxed within the City Centre where the impact of such premises would be less severe.



Built Environment Policy BE7 is of relevance and seeks to ensure that new shopfronts respect the scale and architectural features of the building they are within and the surrounding area. Built Environment BE11 is of relevance to the application and seeks to ensure that proposals both complement and enhance the character of the surrounding area. Built Environment Policy BE17 is of relevance to the application and seeks to ensure that alterations to listed buildings have regard to the restoration or enhancement of their architectural and historic character.

Report 440/1998 Review of Local Plan Policies on Licensed Premises and Sale of Hot Food, which was approved by the Planning and Transportation Committee on the 29 June 1998, is of relevance to the consideration of this application. The Report advises that within the City Centre there will be no controls on distance from residential properties.

LOCAL AGENDA 21

Key Theme 7 is of relevance to the application and seeks to ensure that access to facilities, services, goods and people is not achieved at the expense of the environment and are accessible to all. Given the location of the premises and the nature of the use it is considered that the proposal conforms with the aims of Key Theme 7.

SITE HISTORY

The applicant has also submitted applications for Listed Building Consent and Advertisement Consent. These applications are still to be determined.

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours. The proposed development was also advertised in the "Dundee Courier and Advertiser" on the 26 February 2002 as a potential bad neighbour development in terms of Section 34 of the 1997 Act and on the 6 March 2002 as a potential departure to the development plan. In response a single letter of objection was received from the Provost at St Paul's Episcopal Cathedral. The main grounds of objection were that:

- 1 The proposed development would be a retrograde step to the works for improving the environment of this part of the High Street.
- 2 The proposed development would detract from the appearance of the category "A" listed Cathedral.
- 3 The proposed development would increase the existing problems of anti-social behaviour and the discarding of litter in and around the Cathedral.
- 4 The proposed development would have a negative effect on the image of the City Centre for tourists and citizens.

Copies of the letter of objection are available in the Members' Lounges and the issues raised are addressed in the "Observations" section of this report.

CONSULTATIONS

The Director of Environmental and Consumer Protection advised that he had no objection in principle to the proposed development subject to conditions covering the matters set out in the applicants noise consultants letter dated 15 May 2002.

No adverse comments were received from any of the statutory consultees.

OBSERVATIONS

The determining issues for the Committee in this instance are whether:

- 1 The proposal is in accordance with the Retailing, Leisure and Tourism and Built Environment Policies of the Dundee Local Plan 1998.
- 2 The proposal would have detrimental affect on the environmental quality of the surrounding area by virtue of anti-social behaviour, litter and appearance.

The application property is located within an area identified by the Local Plan as Secondary Retailing. Retailing Policy S5 applies to these areas and allows for non-retail activities within Classes 1, 2 and 3 of the Town and Country (Use Classes)(Scotland) Order 1997 in ground floor shop-type premises. The proposed development is for a fast food restaurant and would fall within Class 3 of the Use Classes Order 1997. The property to be occupied is a ground floor shop-type premise. The application is considered to be in accordance with Retailing Policy S5 of the Dundee Local Plan 1998.

As the proposal is for a restaurant for the sale of hot food Leisure and Tourism Policy LT8 of the Local Plan is relevant. In addition, Report 440/98, which reviewed the Local Plan policies for the sale of hot food, is also relevant. Policy LT 8 seeks to resist premises for the sale of hot food within 45 metres of existing or proposed residential properties. There are residential properties within 45 metres of the application proposal in the form of the student residences which are directly above the application premises and flats in Castle Street which are within 10 metres of the rear of the

premises. The preamble to the policy does advise that these controls may be relaxed in the City Centre. The Non-Statutory review of the policies set out in Report 440/98 goes further and removes the controls on distance from residential properties in the City Centre. It is considered that the approach set out in the Non-Statutory Policies for the sale of hot food in the City Centre should be followed in this instance and as such it is considered that proposal is acceptable.

As the proposals involve elevational alterations to the façade of the building it raises issues for consideration in terms of the Built Environment Policies of the Local Plan. The relevant policies seek to ensure that alterations enhance or complement the visual appearance of the building and the surrounding area. The policies also seek to encourage the restoration of original features particularly where the building is listed. The proposals for the design of the shopfront are considered to be of a good quality design and restore some of the original features. In addition, the proposals will result in the removal of inappropriate paintwork applied by the previous operator. Taking into account of the above it is considered that the proposed elevational alterations are in accordance with the Built Environment Policies of the Local Plan 1998.

A single letter of objection was received to the proposal from the Provost at St Paul's Cathedral. The objections raised are considered in the following paragraphs.

- 1 "the proposed development would be a retrograde step to the works for improving the environment of this part of the High Street." The proposal seeks to remove the inappropriate additions on the facade and reinstate some of the original features. They also intend to remove the inappropriate paintwork from the façade of the building and replace it in a more sympathetic manner. It is considered that the proposed development would enhance the visual appearance of the property and contribute to the surrounding area.
- 2 "The proposed development would detract from the appearance of the category "A"

listed Cathedral." As indicated above it is considered that the proposal would enhance the appearance of the building and the surrounding area. Therefore it is considered that the proposal would not detract from the appearance of the Cathedral.

- 3 "the proposed development would increase the existing problems of anti-social behaviour and the discarding of litter in and around the Cathedral." The Cathedral already experiences problems of anti-social behaviour, which is likely to be due to its location within the City Centre. It is considered that the proposals for the restaurant would not directly result in an increase in anti-social behaviour in and around the Cathedral. Given there are problems at present this issue is one of a more general nature of the policing of the area. In addition, there is already CCTV coverage of this area. The applicants have indicated that litter bins will be provided at the restaurant to deal with the concerns relating to the discarding of litter and this can be covered by a condition.
- 4 "the proposed development would have a negative effect on the image of the City Centre for tourists and citizens." The proposals for the elevational alterations will remove inappropriate features and introduce a new façade that will both complement and enhance the appearance of this building and the surrounding area. In addition, the retailing policies of the local plan allow for restaurants within both the primary and secondary retailing areas of the City Centre. Therefore it is considered that rather than having a negative affect on the area the proposals will improve the appearance of this part of the City Centre.

Design

The proposed elevational alteration will reintroduce a more traditional design to the shopfront and remove the inappropriate paintwork that exists on the building at present. The proposals will therefore enhance the appearance of this prominent façade.

CONCLUSION

It is considered that the proposal is in accordance with the Retailing, Leisure and Tourism and Built Environment Policies of the Dundee Local Plan 1998. In addition, it is considered that the objections raised by the Cathedral are not sufficient to warrant refusal of the application in this instance.

RECOMMENDATION

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

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 That the proposed change of use shall be carried out and operated in accordance with contents of the applicant's noise consultants (Ashworth) letter dated the 15 May 2002.
- 3 That deliveries to the proposed restaurant shall be limited to between 09.00hrs to 18.00hrs and shall only take place from Castle Street via the pend to the rear of the premises. No deliveries shall be made to the premises from the High Street to the front or side accesses to the premises.
- 4 Samples of all finishing materials are submitted to the Council for approval prior to the commencement of development and if approved the development shall be carried out only in full accordance with such approved samples.
- 5 That the hours of operation for the proposed restaurant shall be limited to between 0900 to 2300hrs Sunday to Thursday and 0900 to Midnight on Friday and Saturday.
- 6 That details of the provision for collection of litter around the application premises shall be submitted to the Council for approval prior to the commencement of development and if approved the proposed development shall be carried out only in full accordance with such approved details.

Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To ensure that the proposed development does not have a detrimental impact on the environmental quality of residents due to disturbance from noise.
- 3 To ensure that the deliveries are made during working hours in the interest of residential amenity and that the area to the front of the unit is kept free from service vehicles.
- 4 To ensure that the visual appearance of the development is carried out to a satisfactory standard.
- 5 To ensure that the amenity of residents is not detrimentally affected due to disturbance from noise.
- 6 To ensure the environmental quality of the surrounding area is not adversely affected due to litter from the application premises.