

KEY INFORMATION

Ward East Port

Proposal

Change of use from shop to hot food takeaway and erection of flue on rear elevation

Address

23-25 Albert Street
Dundee
DD4 6NS

Applicant

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Agent

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Registered 5 June 2002

Case Officer J Finlay



Hot Food Takeaway Proposed in Albert Street

A change of use from a shop to a hot food takeaway and erection of flue on rear elevation is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The application is contrary to Policy LT8 of the Local Plan as the nearest housing is above the premises and there are no material considerations to consider setting aside the Policy in this instance. Therefore the application is recommended for REFUSAL.

SUMMARY OF REPORT

- Planning permission is sought for change of use from vacant retail unit at 23-25 Albert Street, Dundee to provide a hot food take away and the installation of a flue on the rear elevation. The proposed floor area is approximately 65sq metres. The proposed opening hours are from 5pm to midnight 7 days per week.
- The application was advertised as contrary to Policy LT8 as there are flats directly above and adjacent to the premises. One letter of objection and one petition with four signatures were received from adjacent neighbours.
- The Director of Environmental and Consumer Protection states concerns about potential noise disturbance for the residents above the premises and provided conditions to ensure that any noise disturbance is minimal.
- The application was deferred from the August Committee in order to obtain further information from the applicant about the background of the existing premises on the opposite side of Albert Street, alternative premises which were considered and details of the ventilation system. This information has since been submitted by the agent.

DESCRIPTION OF PROPOSAL

Planning permission is sought for change of use from vacant retail unit to hot food take away with proposed opening hours from 5pm to midnight 7 days per week. The approximate floorspace will be 65sqm. The agent has indicated that the take away will provide a range of international foods. The proposal also includes the installation of a flue on the rear elevation which will be located beside windows of adjacent flats.

The application was deferred from the August Committee and further details about the background of the existing premises were sought. This information has since been submitted by the agent.

SITE DESCRIPTION

The application site is located on the east side of Albert Street. It is a ground floor vacant retail unit with three floors of flats above. The shop has a red painted frontage, black stallrisers, black painted doors with gold detailing, white fascia board and grilles over the windows. There are shops to the north and south with flats above. There are various vacant units on the opposite side of Albert Street. There are various vacant units on the opposite side of Albert Street. There is a hot food takeaway at 27 Albert Street with late opening hours until 2am from Sunday to Thursday and until 3am on Friday and Saturday.

POLICY BACKGROUND

Dundee Local Plan 1998

LT8 (as revised): Outwith the City Centre no licensed premises are acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace. The applicant will be required to demonstrate to the satisfaction of the Planning Authority that adequate measures have been incorporated into the proposal to avoid any nuisance the use might cause by virtue of smell, noise, litter and parking.

LT9 (as revised): Daytime Cafes - this policy allows some relaxation on the above policy. Where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above requirements these may be permitted subject to conditions limiting:

- a The hours of operation between 7am and 7pm.
- b The hot food does not require to be prepared on the premises and will only require heating by means of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.



BE7: New shopfronts and adverts should respect the scale and architectural features of the building they are within and those of the surrounding area. The retention, restoration and uncovering of traditional design features where unsympathetically covered, such as fascias, pilasters, cast iron work etc will be encouraged.

LOCAL AGENDA 21

Key theme 7 of the Council's Local Agenda 21 states that access to facilities, services, goods and people

should not be achieved at the expense of the environment and should be accessible to all. The regeneration of this part of the City encourages the retention of retail to provide for the local community and the proposed loss of retail is contrary to advice in Local Agenda 21.

SITE HISTORY

There is no site history of direct relevance to the application site in this instance.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and one letter of objection and a petition with four signatures were received to the application. The main points of objection raised were:

- 1 Noise
- 2 Parking and traffic problems
- 3 Vandalism
- 4 Loss of shop units
- 5 Litter problems

The application was advertised as contrary to Policy LT8 on 18 June 2002.

CONSULTATIONS

The Director of Environmental and Consumer Protection was consulted and submitted concerns about potential noise disturbance for the residents of the flats above. Conditions were provided to prevent unacceptable noise disturbance for the adjacent residents, in the event that the Council wished to grant planning permission.

OBSERVATIONS

The determining issues for the Committee in this instance are whether the proposal meets the requirements of the Local Plan policies and whether it will have an adverse impact on the residential amenity enjoyed by adjacent neighbours.

Local Plan Policies

Policy LT8 is applicable and contains a general presumption against hot food takeaways which are within 30 metres of existing or proposed housing. In this case it is considered that there are material reasons for recommending

refusal of the application as it is contrary to the development plan. The proposal also contravenes Policy LT9 as the proposed opening hours are until midnight 7 days a week and food will be prepared on the premises.

Material Considerations

Since the matter was considered by the August Committee, the agent has submitted an additional statement which indicates that the proposed takeaway is to replace an existing hot food takeaway on the opposite side of Albert Street, which has been leased from the Council for the past 3 years. A development brief was approved at the Planning and Transportation Committee on 26th June 2000 for the redevelopment of this building on the opposite side of Albert Street. The transfer of the property at 5-21 Victoria Street and 2-22 Albert Street via the Council for transfer to Servite Housing Association was agreed at Committee on 28th January 2002. This is for redevelopment as per the previously approved development brief and to promote a compulsory purchase order to acquire any remaining properties which Servite are unable to acquire by negotiation. An outline application has been submitted by Servite Housing Association for redevelopment of the site and seeks permission for amenity housing for the elderly with commercial premises on the ground floor. The application is contained elsewhere within this Agenda.

The existing unit operates between 5pm and 1am Monday to Thursday and 5pm to 2am on Friday and Saturday. There is also an existing hot food takeaway at 27 Albert Street which operates between 5pm and 2am from Sunday to Thursday and from 5pm to 3am on Friday and Saturday. It is likely that these takeaways were established before the current Local Plan was adopted. The property above the current takeaway is presently derelict and so no noise disturbance is raised for adjoining residents. The applicant is of the opinion that noise levels within the vicinity may be reduced as the proposed takeaway will have earlier closing hours.

The applicant has been looking for other suitable premises and contacted the main property surveyors in the City Centre and the Economic Development Department of the City Council. It has

been clear from the outset that the lease was temporary pending redevelopment and there is no other vacant Council property on offer in Albert Street. The few units owned by the Council in Victoria Street or Princes Street are occupied and therefore unavailable.

A study for Albert Street was agreed at Committee on 25th October 1999. This concluded that there needed to be a redefinition of the shopping centre to consolidate and exclude the southern section of Albert Street and consideration of alternative uses for vacant retail premises in this area. It is unlikely that the vacant shop at 23-25 Albert Street will remain in retail use due to lack of demand.

Notwithstanding all the above, the proposal is contrary to Policy LT8 of the Local Plan. It is not considered that any material considerations such as the replacement of an existing takeaway, the presence of other takeaways within close proximity and comments from ECPD provide justified reasons for setting aside the policies of the Local Plan in this instance.

Ventilation Flue

Part of the proposal includes the installation of a ventilation flue on the back of the building. Due to the proposed foods to be prepared on the premises, which are a range of international foods, a ventilation system is required which directs smells above the flats and therefore a flue system of the proposed design is necessary. The Director of Environmental and Consumer Protection Department (ECPD) has been consulted and requires conditions to be applied to protect the residential amenity of adjoining residents from potential noise disturbance, if planning permission is granted. Noise levels, both internally and externally, have been specified by ECPD and the agent has indicated that these noise levels can be achieved using a 550mm diameter flue. The proposed duct has a galvanised finish, but this can be painted to match the building, if this is considered necessary.

It is not considered that there are material considerations that would justify setting aside the policies of the Dundee Local Plan 1998 in this

instance. Therefore the application is recommended for REFUSAL.

Design

The application is for change of use and for the installation of a flue on the rear elevation. The design of a new shopfront may be the subject of a further application.

CONCLUSION

The proposal is contrary to Policies LT8 and LT9 of the Local Plan and there are no material considerations that would justify approval of the proposal contrary to the development plan.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reasons:

Reasons

- 1 The proposal is contrary to Policies LT8 and LT9 of the Dundee Local Plan 1998 as the amenity of adjoining residents occupying adjacent flats is likely to be adversely affected by noise and odour and there are no material considerations that would justify approval contrary to the development plan.
- 2 The proposed flue is likely to have an adverse visual impact on appearance of the building.