

**KEY INFORMATION**

**Ward** Ardler

**Proposal**

Change of use from retail unit to hot food takeaway

**Address**

3 Teviotdale Avenue  
Dundee  
DD3 9AX

**Applicant**

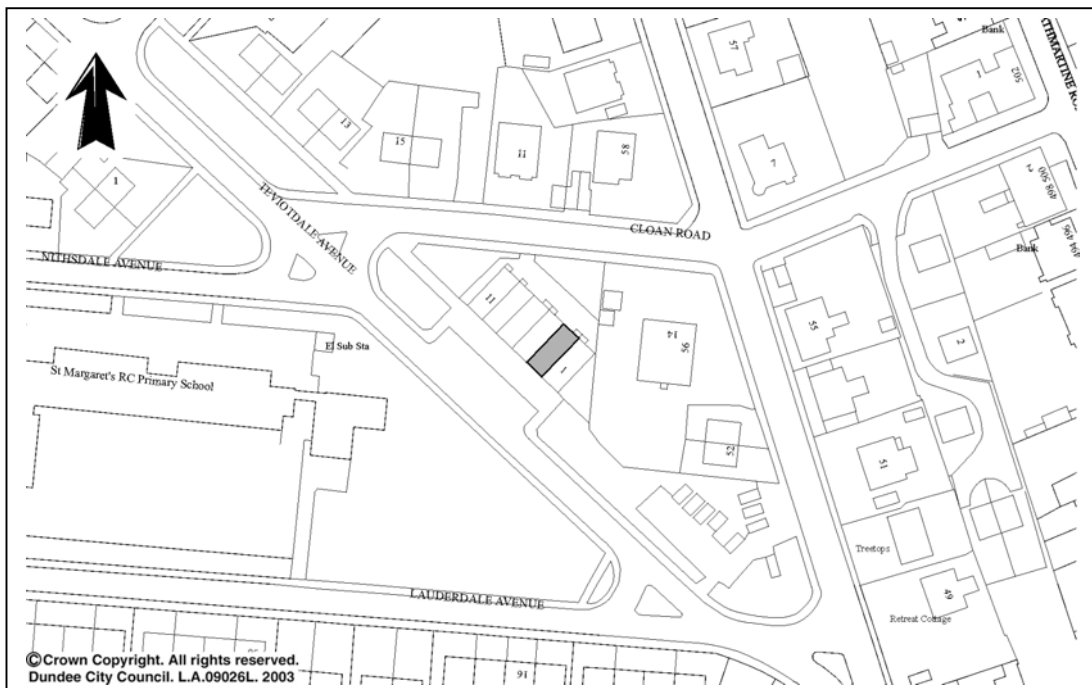
Mrs Sharma  
C/o Leadingham Hynd  
Partnership  
18 South Tay Street  
Dundee

**Agent**

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18 South Tay Street  
Dundee  
DD1 1PD

**Registered** 7 July 2003

**Case Officer** Eve Jones



A Change of use from a retail unit to a hot food takeaway is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development is contrary to the relevant policy in the Dundee Local Plan and the Finalised Local Plan Review as there are houses within the proscribed distance to the rear of the site. However, in this particular case, the material considerations are strong enough and the recommendation is to **APPROVE** the application subject to specific conditions relating to noise, fume control and opening hours.

**SUMMARY OF REPORT**

- Planning permission is sought for the change of use of an existing vacant shop unit within a small group of shops on the east side of Teviotdale Avenue. The adjoining units are an existing hot food take away and a small supermarket. There is parking for approx. 12 cars.
- The site is opposite a school within an established residential area. The nearest houses are to the rear of the unit. There were no objections to the proposal.
- The proposed use does not comply with the relevant policy on hot food take aways in both the Dundee Local Plan and the Finalised Local Plan Review due to the proximity of the nearest houses to the rear.
- The unit is small, approx. 65 square metres, and is within a group of shops where there is an existing level of activity late in the evening. It is considered that the change of use of this one unit will not add significantly to the existing circumstances and will not have a detrimental impact on amenity.

## DESCRIPTION OF PROPOSAL

Change of use of existing vacant shop to form hot food take away. There are no external alterations to the premises.

## SITE DESCRIPTION

A relatively small, 65 square metre shop unit within an existing group of shops on the east side of Teviotdale Avenue, south of Cloan Road. The existing unit to the south is a hot food take away, to the north 2 units have been combined to form a small supermarket. There is a parking area in front of the shops which can accommodate approximately 12 vehicles. There is a primary school on the west side of the road but the other surrounding uses are all residential.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

### Dundee Local Plan 1998

The following policies are of relevance:

Policy H1 - Existing Residential Areas. The policy does not preclude the retention or sensitive introduction of services or facilities which are desirable in residential areas provided they do not adversely affect the amenities enjoyed by neighbours and are in accordance with other policies in the Plan.

Policy LT8- Licensed and Hot Food Premises. No premises selling hot food is acceptable within 30 metres of housing if the outlet is less than 150 square metres. The rear of the unit is within 5 metres of the rear garden boundary of the nearest residential unit to the east. The house is 15 metres away. The nearest residential boundary to the north is 25 metres from the rear of the unit. As the unit is less than 150 square metres, the proposal does not comply with the policy.

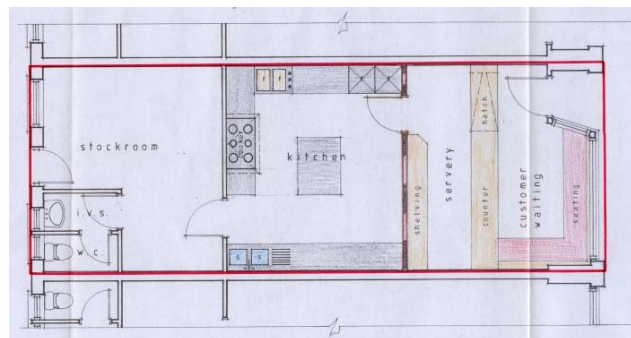
### Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application

### Finalised Dundee Local Plan Review

The following policies are of relevance:

Policy 1 - Vibrant and Sustainable Communities. The policy promotes vibrant communities and encourages the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the plan and seek to minimise any effect on the environmental quality enjoyed by local residents.



Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The policy states that generally hot food premises of less than 150 square metres are not acceptable within 30 metres of residential properties.

### Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application

### Non Statutory Statements of Council Policy

There are no non statutory Council policies relevant to the determination of this application

## LOCAL AGENDA 21

The proposal complies with Key Theme 7 as access to services and facilities is not achieved at the expense

of the environment and are accessible to all.

## SITE HISTORY

There is no relevant planning history.

## PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification, was advertised as a potential Bad Neighbour development and was also advertised as a development contrary to the Development Plan. There were no objections.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that the submitted details of the proposed fume extraction equipment is acceptable provided the system is installed and maintained properly. With regard to any noise from the proposed equipment, this can be controlled by appropriate conditions should the application be recommended for approval.

## OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider

- whether the proposals are consistent with the provisions of the development plan; and if not
- whether an exception to the provisions of the development plan is justified by other material considerations

## The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above. The proposal is contrary to Policy LT8 as the premises are within 30 metres of housing.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

## Other Material Considerations

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

The proposal is contrary to Policy 53 of the Finalised Local Plan due to the

proximity of the unit to the nearest residential properties to the rear. Whilst Policy 1 seeks to support the provision of services and facilities close to and within residential area, the proposal should be in accordance with other policies.

The restrictive policies regarding hot food take aways are designed to minimise the impact of such uses on the amenities enjoyed by surrounding residents. In this particular case, the site is relatively small and is within an existing group of shops which provide local services. The unit faces on to Teviotdale Avenue but the nearest residential units are to the rear. There is an existing hot food take away in the adjoining unit. A high standard of fume control equipment has been proposed and its installation and maintenance can be controlled by planning condition. Noise from any equipment can also be the subject of specific controls. The applicant has agreed to restrict the opening hours to 11.00 pm.

### Design

There are no design issues as there are no external alterations.

### CONCLUSION

It is considered that the likely additional impact of this particular proposal on the existing amenities enjoyed by surrounding neighbours will be limited given the location and orientation of the site, the small scale of the unit and the nature of the adjoining uses. In addition, the fume and noise impacts can be the subject of specific planning conditions. On balance, in this particular location, it is concluded that sufficient weight can be accorded to the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

### 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 The premises hereby approved shall only be open to customers between 1600hrs and 2300 hrs on any day.
- 3 Total noise from all mechanical and electrical services shall not exceed NR45 from 0700 to 2330hrs and NR35 from 2330 to 0700hrs as measured 1 metre external to the façade of 14 Cloan Road or 56 Frederick Street.
- 4 The submitted fume control equipment shall be installed, maintained and operated in accordance with the manufacturers recommendation and shall be operated at all times whilst food is being prepares, cooked or served.

### Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 to protect the amenities of the occupants/owners of nearby adjacent properties in the locality
- 3 to protect the amenities of the occupants/owners of nearby adjacent properties in the locality
- 4 to protect the amenities of the occupants/owners of nearby adjacent properties in the locality