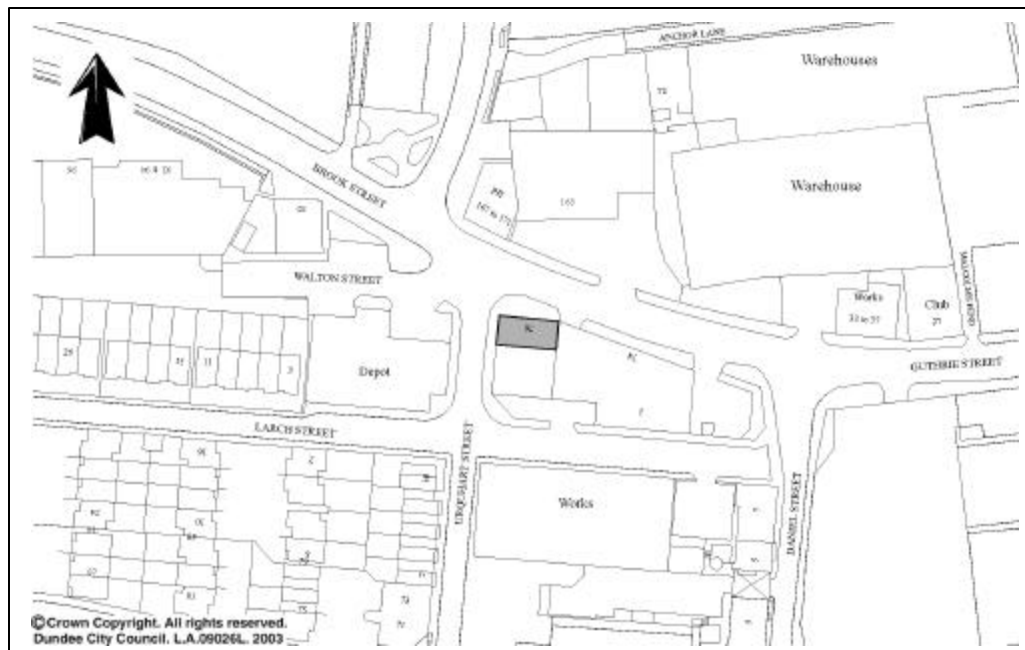


KEY INFORMATION**Ward** Logie**Proposal**

Change of use to hot food takeaway

Address76 Brook Street
Dundee
DD1 5BP**Applicant**Mr P Sale &
Mr A Cruickshank
86 Bell Street
Dundee
DD1 1HN**Agent**James Paul Associates
4 Brook Street
Broughty Ferry
Dundee
DD5 1DP**Registered** 13 Oct 2003**Case Officer** Eve Jones

Proposed Hot Food Takeaway in Brook Street

A change of use to a hot food takeaway is **RECOMMENDED FOR APPROVAL** subject to conditions.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposed hot food take away is contrary to Policy LT8 as there is one flat within 30 metres. However, it is considered that proposal will not adversely affect the amenities currently enjoyed at this property and the application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought to change the use of the northern part of an existing industrial building to form a hot food take away. The proposed hours of operation are 0900 to 12 midnight.
- The site lies on the south side of Brook Street in a predominantly commercial area but there are new housing developments nearby to the west and south west.
- The application has been advertised a Bad Neighbour development and a development contrary to Policy LT8 as there is one flat within 30 metres of the site. No objections have been received.
- The applicants agent has submitted justification in support of the application which states that the road is busy, there are 5 on street parking spaces adjacent to the site, the flat in question is above a public house which serves food and is also open until 12 midnight and the proposed ventilation system will not create noise or smells.
- It is considered that the existing residential amenity of the flat above the public house will not be adversely affected by the proposed development given the above circumstances in the area.

DESCRIPTION OF PROPOSAL

The application proposes the change of use of part of an existing industrial building to form a hot food take away. The take away will be 146 square metres half of which will be preparation and cooking area, the remainder being service area, waiting area and office. A new customer door will be formed in the south elevation. The proposed hours of operation are 0900 to midnight. The proposed ventilation outlet shall be on the roof but no details are provided.

SITE DESCRIPTION

The site lies on the south side of Brook Street, east of its junction with Urquhart Street. It forms the northern part of an existing industrial building which will be sub-divided. The remainder of the building will continue in industrial use. This is a predominantly commercial and industrial area where new housing has recently been built on sites to the south west. Brook Street is a busy local distributor road which links the City Centre with the north west of the City. There are two car repair firms operating in premises to the west and a veterinary surgery to the north west. There is a public house with a flat above to the north surrounded by a wide range of industrial and commercial premises. There is a short length of limited car parking on street to the east of the site, otherwise no on street parking is permitted.

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 LT8 Licensed and Hot Food Premises.

Dundee Urban Nature Conservation Subject Local Plan 1995

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

Finalised Dundee Local Plan Review 2003

The following policies are of relevance:

Policy 53 Licensed and Hot Food Premises outwith the City Centre.

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

Key Theme 7 indicates that access to facilities, services, goods and people is not achieved at the expense of the environment.

SITE HISTORY

There is no relevant planning history.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and

was also advertised as a Bad Neighbour development and a development contrary to the Development Plan. There were no objections.

CONSULTATIONS

There were no adverse comments from consultees.

OBSERVATIONS

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

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b 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.

Policy LT8 Licensed and Hot Food Premises. The policy restricts the location of hot food premises within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres. There is one flat within 30 metres. It is approximately 20 metres to the north, across Brook Street, above the public house. The nearest of the new residential properties is 33 metres away and proposed housing to the west will be 50 metres.

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:

Finalised Dundee Local Plan Review 2003

Policy 53 Licensed and Hot Food Premises outwith the City Centre. This policy reflects the existing distance restriction in Policy LT8

therefore the flat above the public house is within the relevant restricted distance. The policy also allows some degree of relaxation in District Centres or where opening hours can be restricted. The site does not lie within a District Centre and the proposed opening hours are 0900 to midnight. The exceptions do not apply in this case.

The applicant's agent has submitted supporting justification as follows:

- i The surrounding area is mixed use, predominantly commercial.
- ii The public house opposite is open until 12 midnight and occasionally later.
- iii Brook Street is a busy pedestrian and vehicle route from the City Centre to the north west of the City.
- iv There are 5 on street parking spaces available adjacent to the site.
- v There is only one residential unit within 30 metres above a busy public house which serves food, has a ventilation outlet immediately to the rear of the flat and fronts on to a busy road. The proposal is unlikely to reduce the existing levels of residential amenity experienced at this property.
- vi The proposed ventilation outlet will be operated in a manner which prevents the transmission of noise, dust, vibration or odours to any neighbouring dwelling.

The agent concludes that given the present activity in the area, with adequate controls, the proposed use will not adversely affect the amenities of properties in the general vicinity.

It is considered that the proposed take away will not adversely affect the existing amenities enjoyed by the residents of the flat within the 30 metre area of restriction identified by the local plan policies. It is located above a public house on a busy road; the on street parking area is further to the east; the closing time proposed is the same as normal public house hours and the ventilation systems will be controlled by conditions.

It is concluded from the foregoing 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.

Design

There will be a minor alteration to the northern elevation by the replacement of a window by a customer door. The building has a functional commercial appearance which will not be significantly altered. It is likely that signage will require an appropriate permission.

CONCLUSION

It is concluded from the foregoing 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 Total noise from all mechanical/electrical services shall not exceed NR35, as measured 1m from the facade of any residential accommodation.
- 3 Before use commences, full details of the ventilation/extraction system shall be submitted for approval and if approved, the works shall be carried out only in accordance with such approved details.
- 4 All music shall be inaudible within the nearest noise sensitive residential property.
- 5 The use hereby approved shall only operate between the hours of 0900 to 12 midnight on any day of the week.

Reasons

- 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.
- 5 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.