

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from existing retail and storage space to a food court including internal and elevational alterations at Level 2 of the Overgate Shopping Centre, West Marketgait.

The proposal is for the formation of a food court extending to some 1,550 sq.metres gross floor area and incorporating some 4 food units with shared seating area.

Internal alterations will include the reconfiguration of the existing ground floor cafe in order to accommodate new escalators providing access/egress to the food court at level 2 of the centre. A new lift is also to be installed to provide access to the food court. Associated toilet facilities are to be provided at the food court level.

External alterations include the formation of a cantilevered glass extension at level 2 on the east facade of the building overlooking the City Churches.

The proposal includes the provision of new plant and machinery on the roof of the Overgate centre to service the proposed food court.

SITE DESCRIPTION

The application site is located within the western section of the existing Overgate Shopping Centre. The site is at level 2 and faces east towards the City Churches. The area under consideration is currently used for retail and storage and extends to approximately 1,550 sq. metres gross floor area. The existing cafe at ground floor will be reconfigured to accommodate the new escalators and lift.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 34: City Centre Retail Core.

Policy 52: Restraint on Licensed Premises in the City Centre.

Policy 55: Urban Design.

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 is relevant to the consideration of this 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. It is considered that the proposed development meets the aims of this Key Theme.

SITE HISTORY

There is no site history of relevance to the consideration of this application.

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the proposal was advertised in the "Dundee Courier and Advertiser" on the 20 September 2005 in terms of Section 34 of the Town and Country Planning (Scotland) Act 1997. No letters of objection were received to the proposed development.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advised that he had no objection to the proposed development subject to a condition

being imposed on any permission granted stating that: "during the period 2300-0700hrs total noise from all mechanical and electrical services shall not exceed NR35 as measured 1m external to the facade of the nearest residential accommodation."

Architecture and Design Scotland advised that the introduction of new life into the upper floor of the existing centre (facing the City Churches) was welcomed.

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

The proposed development is for a change of use from retail and storage to a food court on level 2 at the western end of the existing Overgate Shopping Centre.

The Overgate Centre is located within the area defined as the City Centre Retail Core by the Dundee Local Plan Review 2005. Policy 34 applies to the Retail Core Area and seeks to encourage Class 1 (Retail) uses. The Policy also advises that proposals which would result in the loss of retail uses other than Class 3 uses on all floors of the Overgate Centre will not be permitted. The proposed use is for a food court. It is considered that this use would fall within Class 3 of the Uses Classes Order 1997. As such the proposed change of use within the Overgate Centre would be acceptable in terms of Policy 34.

Policy 52 sets out restraints on the location of licensed premises in the City Centre. The purpose of this policy is to control the location of

licensed premises (excluding restaurants) in the City Centre. The main reason for this control is to avoid the excessive concentration of public houses and nightclubs particularly in close proximity to residential areas. Policy 52 therefore allows for restaurants within the City Centre with no restrictions in terms of floor area or location. The proposal is for a food court and would fall into the same use class as a restaurant. As such it is considered that it does not raise any issues of concern in terms of the provisions of Policy 52

Policy 55 Urban Design seeks to ensure that all new developments place emphasis on design quality and the creation of new public spaces and points of interest which incorporate architectural and landscape features and reflect the historic street layouts, significant views and vistas. It is considered that the design of the extension is of a good quality and will add interest and activity into this elevation. The proposal is considered to comply with Policy 55.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

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

The proposed development includes the installation of new plant and machinery on the roof of the existing centre to service the food court. The applicants have advised that the specification of the plant and machinery and therefore the potential noise output are as yet not finalised. The Head of Environmental Health and Trading Standards advised that it is unlikely that residents in the surrounding area would be subject to disturbance from noise from the new plant and machinery given its location. However, he advised that as the final noise output levels are not available a condition should be imposed to ensure that disturbance from noise does not become a problem to residents from the new plant and machinery particularly in the evening. The proposed condition is outlined in the "Consultations" section of this Report.

It is concluded from the foregoing that there are no material considerations that would justify the refusal of planning permission contrary to the provisions of the development plan. It

is therefore recommended that planning permission be granted with conditions.

Design

The majority of the proposal is contained within the existing Overgate Centre. The proposal does however include a glazed cantilevered extension on the facade of the building facing eastwards over the City Churches. It is considered that this is of a good quality of design and complements the visual appearance of the existing building. Architecture and Design Scotland have welcomed this part of the proposal.

CONCLUSION

It is considered that the proposed change of use is in accordance with Policies 34, 52 and 55 of the Dundee Local Plan Review 2005. There are no material considerations that would justify a departure to the provisions of the development plan 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 During the period 2300-0700hrs total noise from all mechanical and electrical services shall not exceed NR35 as measured 1m external to the facade of the nearest residential accommodation.
- 3 Samples of all finishing materials shall be submitted to the Council for approval prior to the commencement of development and if approved the proposed development shall be carried out using only the approved finishing materials.
- 4 Details of the design of the cantilevered glazed extension on the east facing elevation 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.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of residential amenity and to comply with the Council's standards for the control of night-time noise.
- 3 To ensure that the visual appearance of the proposed development is to an acceptable quality.
- 4 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.