

KEY INFORMATION

Ward Stobswell

Proposal

Change of use to Hot Food Takeaway

Address

44A Court Street
Dundee

Applicant

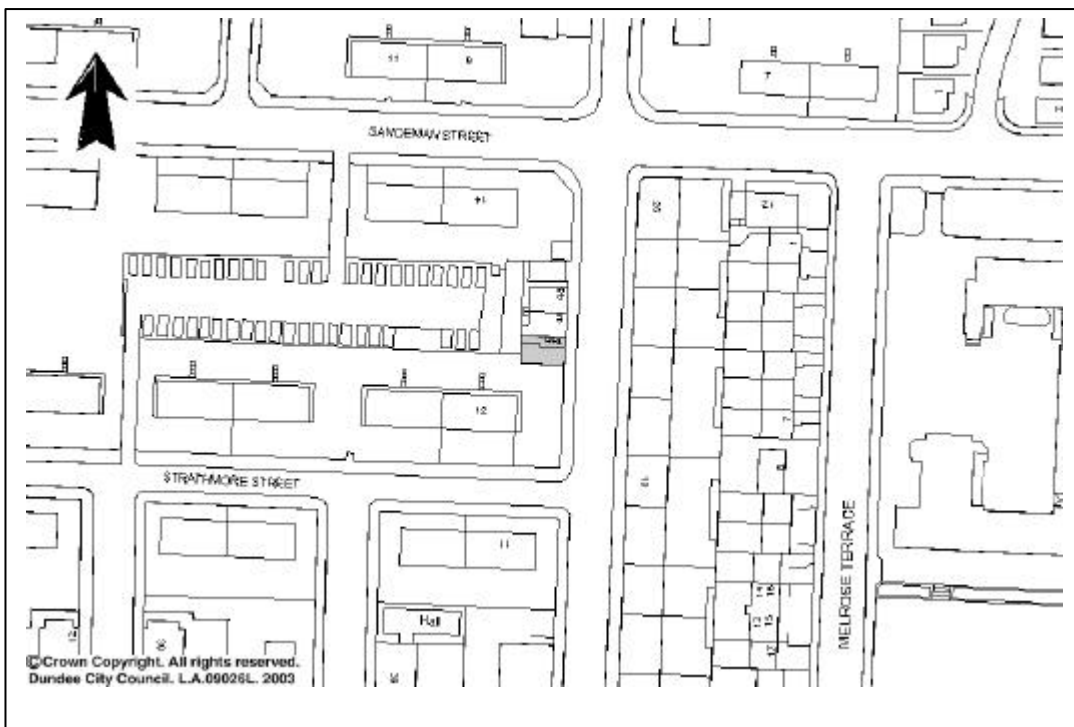
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Registered 9 September
2005

Case Officer S Cooper



Hot Food Takeaway Proposed in Court Street

A Change of use to Hot Food Takeaway is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed change of use to hot food takeaway is contrary to Policy 53 of the Dundee Local Plan Review 2005. The concerns raised in the letters of objection relating to disturbance from noise and anti-social behaviour are considered to be sufficient to warrant **REFUSAL** of the application.

SUMMARY OF REPORT

- Planning permission is sought for a change of use from a taxi office to hot food takeaway at 44A Court Street, Dundee.
- The proposed change of use raises issues for consideration in terms of Policy 1 and Policy 53 of the Dundee Local Plan Review 2005.
- 3 letters of objection were received to the proposal from the owners and occupiers of nearby properties on Court Street. The main grounds of objection were that the proposal would increase noise, litter, traffic and anti-social behaviour in the area.
- It is considered that the proposed change of use to a hot food takeaway is contrary to Policies 1 and 53 of the Dundee Local Plan Review. The concerns raised in the letters of objection relating to disturbance from noise and anti-social behaviour are considered to be sufficient to warrant refusal of the application.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of the presently vacant former taxi office at 44A Court Street, Dundee, to a hot food take-away. It is also proposed to install a flue outlet in the flat roof of the building. The proposed flue outlet would be approximately 1 metre in height. The existing flue outlet would be removed and the wall made good. The proposed hours of operation would be Monday to Friday, 12 noon to 10pm and Saturday and Sunday from 4pm to 10pm.

SITE DESCRIPTION

The application relates to a detached single storey building. The building has a flat roof. There is an existing flue outlet on the south elevation of the building. The building is located in a predominantly residential area, with blocks of flats in close proximity to the east, south west and north west. To the north there is an Accountants Office and a Newsagents.

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

Policy 1: Vibrant and Sustainable Communities seeks to safeguard the amenity of residential areas in terms of design as well as layout, parking and traffic movement, and noise and smell issues.

Policy 53: Licensed and Hot Food Premises outwith the City Centre. This Policy states that in general, outwith District Centres no premises selling hot food is acceptable within 30 metres of existing or proposed housing.

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 and seeks 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 and nature of the proposed operation it is considered that Key Theme 7 would not be achieved.



if planning permission is granted for this proposal. Concerns about smell and traffic problems have also been raised. It is intended to comment on these issues in the 'Observations' section of this report.

Copies of these letters are available in the Members' Lounges.

CONSULTATIONS

The Head of Environmental Health and Consumer Protection advised that subject to appropriate conditions covering noise and odour he would have no objections to the proposed development.

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 applicant is seeking planning permission for a change of use from a taxi office to a hot food takeaway. Policy 53 of the adopted Local Plan is of relevance and advises that no premises selling hot food would be acceptable within 30 metres of existing and proposed housing. The application property is located within a predominantly residential area with a Newsagent and an Accountants Office to the north. To the east (front) on the opposite side of Court Street is a tenement of flatted properties. There are also blocks of flats to the south west of the application site. All of these residential properties are within 30 metres of the proposed hot food takeaway.

The proposed use is clearly contrary to the provisions of Policy 53 of the Dundee Local Plan Review 2005. The

SITE HISTORY

The site has been the subject of a similar proposal in recent years. Planning application ref 00/24671/D was refused in September 2000 for the proposed change of use to a hot food takeaway. Planning permission was granted in March 2002 for a change of use to a taxi office. The taxi office remain the last authorised use of the premises.

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the application was advertised as a bad neighbour development and as a departure from the development plan. 3 letters of objection were received to the proposal from owners and/ or occupiers of nearby properties on Court Street.

The objections from neighbours refer to the potential problems of anti social behaviour, noise and litter and they are concerned that these problems emerge

applicants have not provided any supporting evidence that would justify setting aside the provisions of Policy 53.

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 the 3 letters of objection which were received. The objectors refer to the existing takeaway premises on the parade and are concerned about noise from customers, cars and delivery vehicles, anti social behaviour from groups congregating at the premises, odour and litter problems. These concerns can be addressed as follows:

Noise and Anti social behaviour: Given the proximity of the premises to the residential properties, any noise from customers or vehicles and any anti-social behaviour would be likely to detrimentally affect the amenity of the residents particularly late at night. Policy 53 seeks to maintain a separation distance between hot food premises and residential properties to reduce the impact of the potential disturbance on residents. It is considered that noise and potential anti-social problems could lead to a detrimental affect on residents due to disturbance from noise late at night.

Litter: The proposal could result in the generation of additional litter in the area. If the proposal were to be approved a condition could be attached requiring the provision of litterbins at the shop. Notwithstanding this it is considered that the potential impact from litter would not warrant refusal of the application.

Odour: Subject to the imposition of a planning condition, appropriate arrangements could be made for the control of cooking smells and it is considered that any potential impact from cooking smells would not warrant refusal of the application.

It is concluded from the foregoing that the material considerations weigh against the grant of planning permission. It is therefore recommended that planning permission be refused.

Design

The proposed alteration to the building is the installation of a new flue outlet

through the roof of the building. The existing flue in the south elevation would be removed and the wall would be made good. Although it would be fairly large it is considered that the proposed flue outlet would not be so detrimental to the character and appearance of the building or surrounding area to justify the refusal of the application for this reason.

CONCLUSION

The proposed change of use to hot food takeaway is contrary to Policy 53 of the Dundee Local Plan Review 2005. The concerns raised in the letters of objection relating to disturbance from noise and anti-social behaviour are supported. There are no material considerations that would outweigh these concerns and justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission is refused.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reason(s):-

Reason

- 1 The proposed change of use is contrary to Policy 53 of the Dundee Local Plan Review 2005 as there are existing residential properties within 30 metres whose existing amenity would be detrimentally affected and in particular from disturbance due to noise and anti social behaviour. There are no material considerations that would justify departing from the policies of the development plan in this instance.