

KEY INFORMATION

Ward Ardler

Proposal

Erection of retail unit including fast food take-away

Address

Esso Filling Station
Macalpine Road
Dundee

Applicant

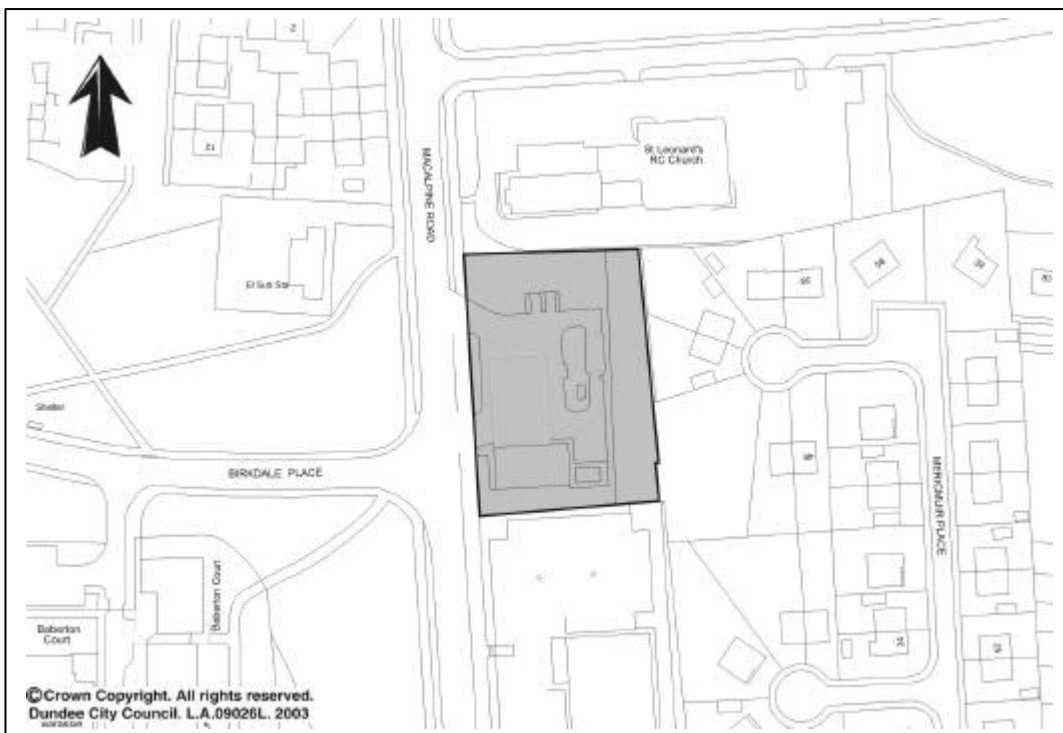
Glennifer Developments Ltd
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Agent

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Registered 5 Jan 2006

Case Officer S Cooper



Proposed Retail Development in Macalpine Road

Erection of retail unit including fast food take-away is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

It is considered that the proposed development is contrary to the shopping policies of the Dundee and Angus Structure Plan 2001-2016, the Dundee Local Plan Review 2005 and SPP8. There are no material considerations that would justify the approval of this planning application, contrary to the provisions of the development plan. It is therefore recommended that the application is refused.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a food retail unit with a fast food takeaway at the former petrol filling station at MacAlpine Road, Dundee.
- The proposal raises issues for consideration in terms of the Retailing Policies of the Dundee & Angus Structure Plan 2001-2016 and Policies 42, 45 and 55 of the Dundee Local Plan Review 2005.
- Objections were received from a members of the public, and the operators of 2 existing foodstores in the area.
- It is considered that the proposed foodstore is not in accordance with the Retailing Policies of the Dundee & Angus Structure Plan 2001-2016 and Policy 42 and Policy 45 of the Dundee Local Plan Review 2005. There are no material considerations that would justify a departure from the policies of the development plan.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of a food retail unit with a hot food outlet and associated works at a former petrol filling station on the east side of MacAlpine Road, Dundee.

The food retail unit would have a floor area of 1115 sq m. and the fast food outlet 93 sq m. A total of 55 car parking spaces would be provided. No details have been given of the intended operators of the proposed retail unit and fast food outlet.

The unit is to be located close to the east boundary (rear) of the site with a service yard at the northern corner. The hot food take away unit is proposed at the southern end of the building. The parking is located along the front and side of the building with a single access for both customers and service vehicles taken from MacAlpine Road. The building has a largely glazed frontage to the car park and a sloping asymmetrical roof which is higher to the front and lower to the rear of the building.

In support of the application the applicant has submitted a Planning Policy Statement, a Retail Impact Assessment, and a Noise Impact Assessment. The Planning Policy Statement argues that the proposal complies with the retailing Policies of the Development Plan, and would not have a significantly detrimental impact on existing shopping provision in the area.

SITE DESCRIPTION

The application site is located to the east side of MacAlpine Road. The site was formerly occupied by a petrol filling station with an associated 225 sq m. retail unit.

The site is bounded by an area of public open space, and also the gardens of 50 and 52 Mericmuir Place to the east. There is an existing food retail unit, operated by Lidl, to the south of the application site. The St Leonards RC Church is located to the north. The public road of MacAlpine Road is to the west. Further to the south there is a shopping parade and a vacant foodstore.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policy is of relevance:

Town Centres and Retailing Policy 4: Out of Centre Retailing

Dundee Local Plan 2005

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities

Policy 42: Local Shopping

Policy 45: Location of New Retail Developments

Policy 53: Licensed and hot food premises outwith the city centre



Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

Scottish Planning Policy 8: Town Centres and Retailing

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 of relevance to the consideration of this application. This theme 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. Given the location of the proposed development it is considered that it does not fulfil the aims of this Key Theme.

SITE HISTORY

There is no site history relevant to the determination of this planning application.

PUBLIC PARTICIPATION

The applicant has carried out the Statutory Neighbour Notification procedures. The application was advertised in the "Dundee Courier and Advertiser" as a potential departure from the provisions of the Development Plan. Objection letters to the proposed development were received from 6 local residents as well as a letter signed by 17 local residents. Objections were also received on behalf of the operators of nearby retail units (Lidl and the Co-op). The main material grounds of objection are:

That the proposal is contrary to the shopping policies of the Structure Plan, the Local Plan and also SPP8;

The building, by its size, height and design would be detrimental to the character and appearance of the area;

The proposal would be detrimental to the amenity of neighbouring residential properties by way of overshadowing, noise, overlooking, light pollution and odour from the fast food outlet;

The loss of the landscaped strip of land;

The contamination of the site by the previous land use;

There is an over-provision of hot food takeaways in the area;

The vacant premises within the Local Shopping Centre should be used before new stores are built;

Noise and disturbances caused by the congregation of people at the fast food outlet; and

Noise and dust disturbance during the construction of the building.

It is intended to comment on these issues in the 'Observations' section of this report. Copies of these letters are available for inspection in the Members Lounges.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that there is considerable potential for hydrocarbon contamination to have occurred as a result of the previous use

(petrol filling station). Accordingly it is recommended that conditions be imposed on any grant of planning permission to require a site investigation and details of any remediation measures required.

The Head of Environmental Health and Trading Standards has requested the submission of a Noise Impact Assessment, as a result of the proximity of residential properties to the application site. The NIA was submitted on the 24th May 2006. The Head of Environmental Health and Trading Standards advises that the proposed development would not be detrimental to the residential amenity of neighbouring houses providing that conditions are imposed to limit the hours of deliveries and to ensure that total noise from all mechanical and electrical services does not exceed NR45 during daytime hours and NR35 during the night.

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 applicant has submitted a Planning Policy Statement and a Retail Impact Assessment in support of this application. The Planning Policy Statement concludes that the proposal is in accordance of Development Plan Policies and National Planning Policy Guidance, and has been designed to benefit the streetscape.

The proposal is for a class 1 foodstore with a hot food outlet. The class 1 foodstore raises issues for consideration in terms of Town Centres and Retailing Policy 4 of the Dundee & Angus Structure Plan 2001-

2016 and Policy 45 of the Dundee Local Plan Review 2005. The criteria reflect the guidance set out on paragraph 45 of SPP8.

The first criterion is that no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centre. The application site is in an out of centre location. The nearest District Centre is at Lochee. There is an existing local shopping centre to the south that serves the Ardler area. Within the Local Shopping Centre there is a vacant class 1 retail unit with a floor area of some 1,600 sq m. That unit was formerly occupied by Kwik-Save. In the Planning Policy Statement, the applicant states that the site adjoins an existing local shopping facility and would compliment the provision for convenience needs at this location and does not comment on the vacant unit. In the Retail Impact Assessment however, it is stated that the vacant store is not an option because it is too large and is an unsuitable building for the small, mainstream supermarket commercial format. It has not been stated that the remainder of the unit could not be sub-let, or that the building could not accommodate the proposed retail unit in a different built form. It is considered that there is an available unit within the local shopping centre and an available unit within the district centre at Lochee and the applicants have failed to demonstrate why these units are no suitable.

The second criterion is that individually or cumulatively it would not prejudice the vitality and viability of existing city, town or district centres. The applicant has submitted a Retail Impact Assessment in support of their proposal. The Assessment states that the proposed store would have a turnover in the region of £9 million per annum, and highlights that there would be no increase in available convenience expenditure within the catchment area to 2008. As such all trade to the proposed store would be drawn from existing shopping centres, including the local shopping centre to the south. The Retail Impact Assessment concludes that the proposal will not threaten the viability of the existing local shopping centre, or other centres in the City. It is considered that the level of trade draw would be detrimental to the vitality and viability of the existing local shopping

centre. Therefore it is considered that the proposed development would undermine the Council's regeneration strategy for the Ardler area by threatening the vitality and viability of the existing shopping centre and undermining the opportunity for re-occupation of the existing vacant food retail unit.

The third criterion for consideration is that the proposal would address a deficiency in shopping provision that cannot be met within or on the edge of the above centres. Within relatively close proximity there is an ASDA superstore at Gillburn Road and a Tesco superstore at the Kingsway. Immediately to the south of the application site there is a Lidl foodstore. Lochee District Centre has a Tesco superstore within it at the Stack Leisure Park. It is therefore considered that there is no deficiency in shopping provision in terms of major food retailing (in excess of 1000 sq. m.) in the area.

The fourth criterion is that the site is readily accessible by modes of transport other than the car. The site is accessible by car, by foot and also by public transport.

The fifth criterion is that the proposal is consistent with other local plan policies. As the proposal is contrary to the provisions of Policies 42 and 53 it is therefore considered that it is not consistent with the fifth criterion.

It is considered from the forgoing that the proposal is contrary to the provisions of Town Centres and Retailing Policy 4 of the Dundee and Angus Structure plan 2001-2016.

The proposal raises issues in terms of Policies 1, 42, 45, 53 of the Dundee Local Plan Review 2005.

Policy 1 seeks to minimise any affect on the environmental quality enjoyed by local residents in terms of design, layout, parking and traffic movement issues, noise or smell.

As it was originally proposed, the new building would have had a dual pitched roof, pitching down from the front and rear creating a central valley. The pitch of the roof to the rear, particularly given the proximity of the building to the eastern boundary raised concern in terms of the impact on the daylight and sunlight received by the houses to the east. As a result of these concerns, the applicant revisited and revised the design and positioning of the building,

subsequently altering the pitch of the roof to a monopitch, and positioning the building further away from the eastern boundary in order to reduce the impact of the building. The applicant also submitted a drawing demonstrating that the building would not significantly impact on the daylight received by neighbouring properties. A landscape buffer would be provided between the proposed building and the eastern boundary to soften the impact of the building. It is therefore considered that the layout and revised design of the building is satisfactory.

The proposal would not be detrimental to the amenity of local residents by way of parking or traffic movement issues.

Conditions can be placed on any grant of planning permission in order to restrict delivery hours and total noise from all mechanical and electrical machinery and therefore it is considered that the proposal would not be detrimental to the amenity of neighbouring residential properties by way of noise. It is considered that the proposal would not be detrimental to the amenity of neighbouring residential properties by way of smell.

It is therefore considered that the proposal would accord with the provisions of Policy 1.

Policy 42 Local Shopping seeks to encourage the upgrading the existing shopping provision within Local Shopping Centres and parades and where appropriate, the provision of additional shopping floorspace up to a maximum of 500 square metres gross. The proposal is for the introduction of a new foodstore with a floorspace of some 1115 square metres. As stated above it is considered that the proposed foodstore would draw trade away from the Local Shopping Centre threatening its vitality and viability. As the proposal is considered to be detrimental to the existing Local Shopping Centre and is in excess of the 500 square metre additional floorspace maximum, it is considered that the proposal is contrary to the provisions of Policy 42 of the Dundee Local Plan Review 2005.

Policy 45: Location of New Retail Developments sets out criteria for the consideration of new out of centre retail developments. The criteria reflect those set out in Town Centres & Retailing Policy 4 of the Dundee & Angus Structure Plan 2001-2016. For

the reasons outlined above it is considered that the proposal is contrary to the provisions of Policy 45 of the Dundee Local Plan Review 2005.

Policy 53 generally presumes against new hot food takeaways outwith the town centre that are within 30 metres of residential properties. The residential properties to the east are less than 30 metres away from the proposed hot food takeaway. The applicant has not submitted any details of proposed opening hours or the means of preparing and cooking food. It therefore follows that the proposal is contrary to the provisions of Policy 53 of the Dundee Local Plan Review 2005.

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:

Objection letters were received from local residents and also from the operators of existing foodstores in the area (Lidl and the Co-Op). The grounds of objection are summarised above.

It is concluded from the foregoing that insufficient weight can be accorded to any 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 refused.

DESIGN

The proposed design has been amended by the applicant to overcome issues of environmental impact raised by neighbours. Although the design of the building is now acceptable, the principle of the development is contrary to the development plan and is not supported.

CONCLUSION

It is considered that the proposed development is contrary to the shopping policies of the Dundee and Angus Structure Plan 2001-2016, the Dundee Local Plan Review 2005 and SPP8. There are no material considerations that would justify the approval of this planning application, contrary to the provisions of the development plan. It is therefore

recommended that the application is refused.

RECOMMENDATION

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

Reasons

- 1 The proposal is contrary to the provisions of Town Centres and Retailing Policy 4 (Out of Centre Retailing) of the Dundee _ Angus Structure Plan 2001-2016 as it fails to meet any of the criteria of that Policy. There are no material considerations that would justify departing from the policies of the development plan in this instance.
- 2 The proposal is contrary to the provisions of Policy 42 (Local Shopping) of the Dundee Local Plan Review 2005 as it fails to meet the criteria of that Policy. There are no material considerations that would justify departing from the policies of the development plan in this instance.
- 3 The proposal is contrary to the provisions of Policy 45 (Location of New Retail Developments) of the Dundee Local Plan Review 2005 as it fails to meet the criteria of that Policy. There are no material considerations that would justify departing from the policies of the development plan in this instance.
- 4 The proposal would result in the establishment of a hot food takeaway within 30 metres of existing housing, contrary to the provisions of Policy 53 of the Dundee Local Plan Review 2005. There are no material considerations that would justify departing from the policies of the development plan in this instance.