



## DESCRIPTION OF PROPOSAL

Planning permission is sought for a small extension to the approved floorspace of the existing hot food take away, from 43.5m<sup>2</sup> to 59m<sup>2</sup>, a development which has already been carried out. The extension does not involve a physical extension to the building but is internal and results from a reorganisation of the facility and the incorporation of previous storage space. A supporting letter from the applicant's agent has been submitted.

Members will recall that this application was deferred at the last Committee to allow the applicant to clarify the nature of the proposed development. Revised plans have been submitted which delete the proposed canopy and new windows and the application therefore refers only to the increase in the floorspace of the take away. All neighbours have been notified of the submission of the revised plans.

## SITE DESCRIPTION

The take away forms part of the larger bakery which occupies 4 units within this long established small industrial area. The bakery occupies 3/4 of the central block of the complex of units which are single storey, industrial in style and materials with open parking/yards between each block. Vehicle access via Annfield Row which can be accessed by Annfield Road and Peddie Street. To the north of the units is an embankment leading up to Annfield Street which lies at right angles to the industrial units. The embankment forms the boundary of the industrial area and to the north is residential development, predominantly traditional tenements leading on to Blackness Road. There is a pedestrian access down the embankment from Annfield Street.

As noted in the description above, the takeaway has been refurbished internally and the additional floorspace for which permission is sought is already part of the operations at present. It is mainly in the form of increased space for customers to queue within the building. The building lies approximately 17m from the face of the tenements on Annfield Street.

## POLICY BACKGROUND

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

### Dundee Local Plan 2005

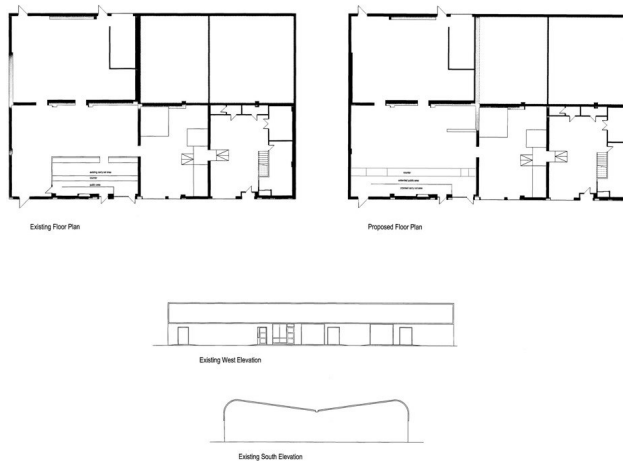
The following policies are of relevance:

Policy 26 - General Economic Development Areas

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.

## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

## SITE HISTORY

97/22543/D Change of use of part of bakery to ancillary sales area, approved 1 April 1997.

01/30387/COU Change of use and alterations to part of bakery to form hot food take away. Approved with conditions by Committee on 28 January 2002. 06/00076/FUL Retrospective consent for formation of

steps, approved subject to conditions 29 March 2006.

07/00338/FUL Application for alterations to bakery frontage, withdrawn on 17 August 2007 and replaced by the current application which is the subject of this report.

07/00403/ADV Application for illuminated signage to be affixed to the proposed canopy. As the canopy is no longer part of the proposed development, the application for signage has now been withdrawn by the agent.

## PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and three objections were received on the following grounds:

- Late night noise and disturbance and anti-social behaviour.
- Increase in traffic.
- Damage to residents cars by customers of the take away.
- Litter and resulting attraction to seagulls.
- Too many food establishments in the area.
- Increased noise from any increase in the number of extractors.

Copies of the objections are available in Members' Lounges and the issues raised will be considered in the Observations below.

Following the amendment to the proposed development and the revised notification to neighbours, there was no additional contact from neighbours or objectors.

## 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 26: General Economic Development Areas - "In areas designated as General Economic Development Areas, proposals for Class 4, 5 and 6 developments will be supported. Other uses of a wider industrial nature such as car showrooms, wholesaling, taxi offices and scrap yards may be permitted provided;

- a there is no detrimental impact on neighbouring uses and local residential amenity, and
- b there is no unacceptable traffic impact; and
- c the scale of development is appropriate to the size and location of the site.

Class 1 retail will not be permitted unless in accordance with other policies in the Local Plan."

The site lies within the General Economic Development Area. Since 1997, it has had planning permission for retail sales, initially of bakery products but since 2002, the hot food take away use has been approved as ancillary to the main use as a commercial bakery. The proposed increase in floorspace is relatively small, does not alter this ancillary relationship and it is considered that the policy is not applicable to this application.

Policy 53: Licensed And Hot Food Premises Outwith The City Centre - "In general, outwith the District Centres no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food is acceptable:

- a within 30m of existing and proposed housing if the outlet does not exceed 150m<sup>2</sup> gross floorspace (excluding cellar space) and;
- b within 45m if the 150m<sup>2</sup> figure is exceeded."

This policy is used to address the principle of all proposed new hot food take aways and as noted above, the

principle of this use has been established since 1997 and has always been open 24 hours a day.

The existing floor space is noted as 43.4m<sup>2</sup> and the proposed retail floor space is 59m<sup>2</sup>. This increase of 15.5m<sup>2</sup> is within the existing building and represents an increase of 35.5% in the operational floorspace. As noted above, the increased floor space has already been provided as part of the refitting of the internal facilities. Whilst the counter area has been repositioned as shown by the submitted plans, the amended floor area now provides increased accommodation for customers to queue in a controlled way within the premises.

It is considered that the proposed increase does not require to be considered in terms of this policy.

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

## Other Material Considerations

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

### Objections

The application was the subject of statutory Neighbour Notification and three objections were received on the following grounds:

- Late night noise and disturbance and anti-social behaviour. The sales element of the original bakery has had 24 hour opening for many years. It does require a late hours catering license which can address management of the facility.
- Increase in traffic. The main vehicle access is from Peddie Street and Annfield Road rather than Annfield Street immediately adjacent to the nearest residential properties. The increase in the floorspace has already taken place and it is considered that the likely increase in traffic and noise will not be significant compared to the existing situation.
- Damage to residents cars by customers of the take away. This is a police matter which cannot be controlled by planning.
- Litter and resulting attraction to seagulls. Bins are provided at the

premises but many customers will eat on the move by foot or vehicle and cannot be controlled by planning.

- Too many food establishments in the area. This is an existing approved take away and the proposal is a limited extension within the existing building.
- Increased noise from any increase in the number of extractors. As noted the increased floorspace has been created and no increase in mechanical or electrical services are proposed. Any existing noise nuisance can be controlled by environmental health legislation.

Many of the issues raised by the objectors relate to the behaviour of customers which cannot be controlled by any planning conditions or restrictions. The management of the facility may try to address these issues directly with customers.

It is considered that this take away provides a valuable service which is required in the City for both late night leisure customers and shift workers. Clearly improved behaviour by customers would improve the situation for nearby residents but this cannot be addressed by the planning system. The extension of the floorspace has already taken place and the facility has improved conditions for customers. The applicant's agent advises that the renovations have improved the conditions for the sale of food, turnover has not increased and no additional staff have been employed. It is considered that the objections are not supported and are not sufficient to justify the refusal of this planning application.

The bakery has a total floorspace of 475m<sup>2</sup> and the hot food take away in its extended form (59m<sup>2</sup>) occupies 12% of that floor area. It is considered that it may be appropriate to indicate to the operator, at this stage, that the City Council, in its consideration of ancillary retailing operations in other commercial operations, would normally apply an approximate limit of 10 - 12% as the maximum that would be considered acceptable to retain the description "ancillary". The take away now provides a wide range of foods on a 24 hour basis. The Committee may consider that sufficient expansion has now taken place and advise that any

further growth will be likely to be considered beyond the accepted definition of an ancillary operation.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to 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**

There are no design issues as the proposed development is all internal to the existing building.

---

### **CONCLUSION**

---

This is a long established bakery business which has operated 24 hour sale of food to customers for many years beginning with bakery products and extending the range by permissions in 1997 and 2002. Many customers now access the site by car. The take away approved in 2002 has been refurbished and this resulted in an increase in the operational floorspace from 43.4m<sup>2</sup> to 59m<sup>2</sup> with much of the increase taken up by improved queuing space for customers within the building. This was noted when an application was submitted to alter the frontage and install a canopy and the applicant was invited to regularise the situation with this planning application.

It is considered that the proposal does not breach any relevant policies and is therefore in accordance with the Development Plan and the objections are not supported. Whilst the Committee cannot make a recommendation binding on the determination of any future planning application, it may wish to advise that the limit of an ancillary operation would appear to have been reached by the current proposal.

---

### **RECOMMENDATION**

---

It is recommended that consent be GRANTED subject to the following condition:

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.

### **Reason**

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.