

KEY INFORMATION

Ward Lochee

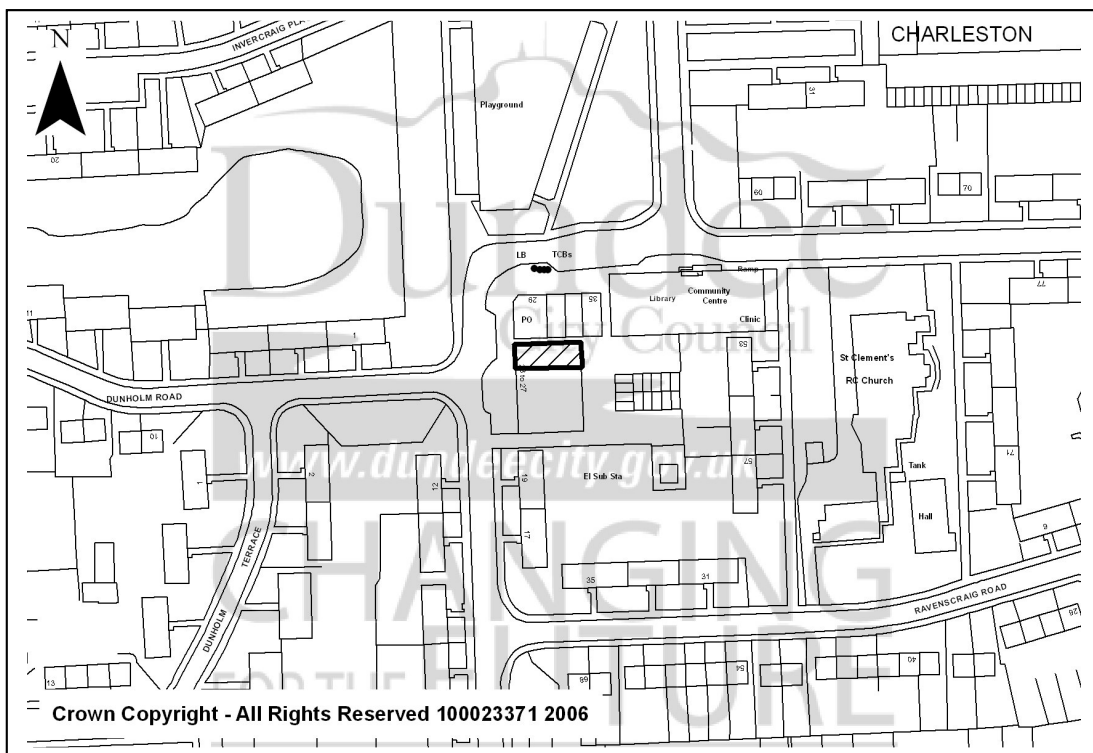
Proposal

Change of use from shop to hot food takeaway

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Dundee
DD2 4NN**Applicant**Mr Mohammed Iqbal
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Registered 8 Nov 2007

Case Officer Eve Jones



Hot Food Takeaway Proposed in Craigowan Road

A change of use from a shop to a hot food takeaway is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

Dundee Local Plan 2005. The application fails to meet Policy 1 - Vibrant and Sustainable Communities and Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The objections are supported and the comments of the Police ALO support the residents' views. There are no material considerations in support of the application. It is therefore recommended that planning permission be **REFUSED**.

SUMMARY OF REPORT

- Planning permission is sought for the change of use of an existing vacant shop to a hot food take away. The unit is 66.5m² and will operate from 10.00am to 11.00pm Monday to Friday and 12.00 noon to 11.00pm on Saturday and Sunday.
- The shop unit is part of a group of local shops on a corner site at Craigowan Road, opposite its junction with Dunholm Road.
- There are flats 34 metres away to the west; 21 metres to the south west; 23 metres away to the south and 27 metres away to the east of the property. All are measured to the edge of their curtilages.
- Dundee Local Plan 2005. Policy 1 - Vibrant and Sustainable Communities and Policy 53 - Licensed and Hot Food Premises outwith the City Centre apply. The application fails to meet the policies, in particular Policy 53, which has a distance restriction of 30 metres to residential properties.
- 2 valid objections were received from local residents on grounds of policy; car parking; road safety issues; litter; anti-social behaviour and the cumulative impact of such uses on residents.
- The Police Architectural Liaison Officer confirms the high level of anti social behaviour which affects this local area.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of an existing vacant shop unit to a hot food take away. The unit has a floor area of 66.5m². It is intended to operate from 1000hrs to 2300hrs Monday to Friday and between 1200hrs and 2300hrs on Saturday and Sunday. No changes are proposed to the front elevation of the building but a new back door will be required for access to the rear yard.

SITE DESCRIPTION

The shop unit was previously a butchers and forms part of a group of local shops on a corner site at Craigowan Road, opposite its junction with Dunholm Road. The adjoining unit is a large grocers/supermarket. The other units in the group comprise another hot food take away, a bakers, a Post Office and the Charleston Library/Community Centre lies further to the east. There is a large enclosed yard to the rear of the shops and the Community Centre with gated access on to Craigowan Road.

Charleston is a well established residential estate with a mixture of flats and houses. There are flats 34 metres away to the west; 21 metres to the south west; 23 metres away to the south and 27 metres away to the east of the property. All are measured to the edge of the curtilage.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 2005

The following policies are of relevance:

Policy 1 - Vibrant and Sustainable Communities

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

There is no relevant site history.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a development contrary or potentially contrary to Policy 53. 2 valid objections were received from local residents on grounds of failure to comply with policy; lack of car parking; road safety issues; litter; premises attract anti-social behaviour which causes social problems and the cumulative impact of such uses on residents.

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

CONSULTATIONS

The Police Architectural Liaison Officer advises that:

"Discussions with local police liaison officers reveal that the area of this proposed takeaway is already a difficult one to police due to youth disorder, including breach of the peace, incidents of racial abuse, vandalism and assault.

The police receive calls on virtually a nightly basis from nearby residents.

There is already one takeaway nearby and others within a close vicinity leading to concerns re possible over provision in an area where regeneration is taking place and the availability of local shopping facilities is likely to become an issue."

OBSERVATIONS

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

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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 1: Vibrant and Sustainable Communities - the City Council will promote vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the Plan and seek to minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

The site lies within an existing group of local shops and community facilities on a corner site which attract local residents both on foot and in cars. There is a limited amount of on street parking available. On street parking is

in short supply in the area, especially in the evening when the proposed take away, like the existing one in the adjacent block, is likely to be busy. The adjoining shop also opens late.

It is likely that an additional take away in this location will generate additional traffic which would be likely to affect the environmental quality enjoyed by the local residents.

The applicant has indicated that the ventilation for the proposed unit will be via a fan ducted up through the roof of the unit. The submitted noise data is insufficient to assess the likely noise impact of the unit. There is no indication of equipment to prevent the issue of food smells to the local environment. The applicant has failed to demonstrate that the proposed take away will not have an adverse affect on neighbours by reason of noise and smell.

Subject to compliance with other policies in the Plan, it is considered that the proposal fails to meet Policy 1 for the reasons given above.

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 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace (excluding cellar space) and;
- b within 45m² if the 150m² figure is exceeded.

In the District Centres some relaxation of the above controls on distance from residential property may be appropriate. However, proposals for hot food takeaways other than those outlined below, will not be permitted in premises directly adjoining (i.e. directly above or to either side) residential property which is not within the control of the takeaway proprietor/operator.

Where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above requirements these may be permitted subject to:

- a the hours of operation being limited to between 7.00am and 7.00pm and,

- b the hot food not requiring to be prepared on the premises and only requiring heating by means of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell."

As noted above, the site lies within a predominantly residential area within a group of local shops. This is not a District Centre.

The nearest properties to the south; south west and east are within 30 metres of the site.

The unit is proposed to operate until 11.00pm every evening and the food will be cooked on the premises.

It is concluded that the proposal fails to meet the requirements 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 as follows:

Objections

2 valid objections were received from local residents on grounds of failure to comply with policy; lack of car parking; road safety issues; litter; premises attract anti-social behaviour which causes social problems and the cumulative impact of such uses on residents.

As noted above, the issues of policy, parking and road safety have been addressed. Litter is always a problem with hot food take aways because of the nature of the use. The provision of bins in the vicinity of the unit are only partly effective. The Police comments highlight the problems they encounter in the area.

In conclusion, the objections are supported.

Police Architectural Liaison Officer

The comments submitted by the Police echo the objections by the local residents.

Justification

The applicant was invited to submit justification in support of the application in view of the failure to

comply with the policies in the Dundee Local Plan Review but no supporting statement was received.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the refusal of planning permission in accordance with the provisions of the development plan. There are no material considerations in support of the proposal.

Design

There are no design issues raised by the proposed development.

CONCLUSION

The application fails to comply with Policies 1 and 53 of the Dundee Local Plan Review 2005. The objections are supported and the comments of the Police Architectural Liaison Officer concur with several of the grounds of objection. It is therefore recommended that planning permission be refused.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

Reasons

- 1 The proposed development is contrary to Policy 1 - Vibrant and Sustainable Communities in the Dundee Local Plan Review 2005 as the development will be likely to have an unacceptable adverse affect on the environmental quality enjoyed by local residents by reason of parking and traffic movement issues and potentially noise and smell. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the terms of the Development Plan.
- 2 The proposed development is contrary to Policy 53 - Licensed and Hot Food Premises outwith the City Centre in the Dundee Local Plan Review 2005 as the development will be within 30 metres of existing housing and will operate after 7.00pm. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the terms of the Development Plan.