

KEY INFORMATION

Ward Coldsid

Proposal

Change of use from vacant public house to Bistro Restaurant with Takeaway

Address

White Horse Inn
Harefield Road
Dundee

Applicant

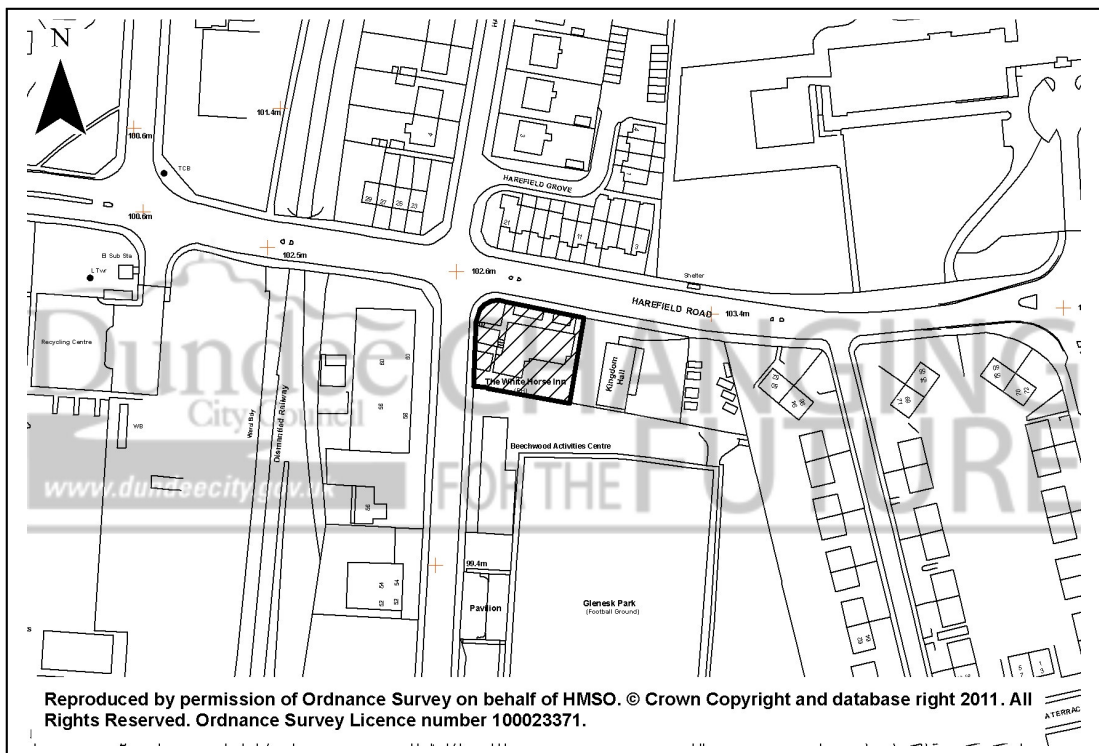
William Brown Food
Company c/o Arktx
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Agent

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Registered 9 Sep 2011

Case Officer B Knox



Conversion of Pub to Restaurant With Takeaway at Harefield Road

The change of use from a vacant public house to a bistro restaurant with take away is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

RECOMMENDATION

The application fails to comply with Policy 1 and Policy 53 of the Dundee Local Plan Review 2005. It is considered that the nature of the proposals will have an adverse effect upon traffic and pedestrian safety in this location and the proposals contravene the distances in terms of proximity to residential property. There are material considerations which support a recommendation of REFUSAL.

SUMMARY OF REPORT

- The application proposes the change of use of a property most recently in use as a public house to that of a restaurant with takeaway facility.
- In total three letters of objection and one petition have been received which raise concerns regarding, amongst other things, traffic and parking issues and amenity issues.
- The applications fails to comply with Policies 1 and 53 of the Dundee Local Plan Review 2005 and there are material considerations which support a recommendation of refusal.

DESCRIPTION OF PROPOSAL

The application proposes the change of use of a property most recently in use as a public house to that of a restaurant with takeaway facility. The takeaway will not be an ancillary part of the development but rather an integral part of the proposed operations. The applicants did not provide an indication on the percentage split between the two uses and use for both restaurant and takeaway uses are therefore sought on an un restricted basis.

It is proposed to provide one large customer entrance to the front elevation on Harefield Road with double doors. There would also be one single entrance to the front corner elevation. One large kitchen area would sit in the central area of the unit. To the rear of the building, there would be customer toilets, staff toilets, a dishwash area and a stock room.

There are limited alterations to the exterior of the unit. There shall be new door openings to the north elevation and a single door opening to the west elevation.

The building benefits from off street car parking at the present time to the rear of the building which is capable of providing space for approximately 7 cars. The applicant proposes to operate the premises for hot and cold food and snacks for takeaway from 8.00am to 10.30pm Monday to Saturday and 11.00am to 10.00pm on Sundays.

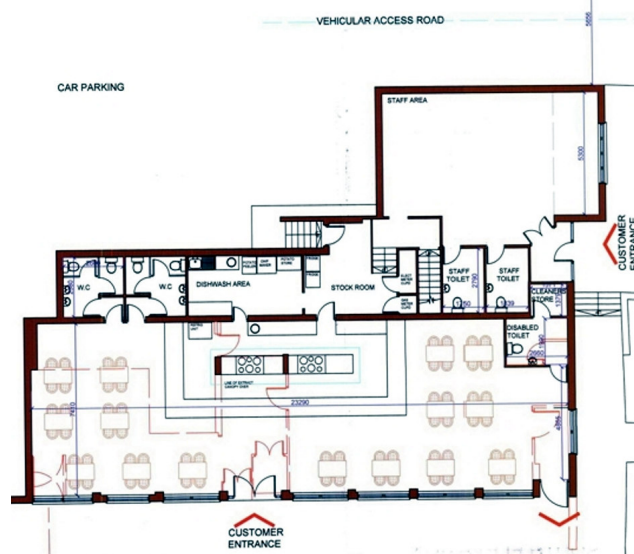
SITE DESCRIPTION

The application site is located on the south side of Harefield Road on the corner with Balfield Road. The property is vacant at the present time but the most recent use was for a public house. Therefore, the property could now be used for that purpose without the need for planning permission.

There is a meeting hall to the east of the site which takes access from Harefield Road. There are residential properties directly opposite the site on the north side of the street situated approximately 30 metres away.

There is a large area to the front of the application building on Harefield Road which is laid in concrete stones. In

addition, there is an enclosed car parking area at the rear of the property which takes access from Balfield Road.



The building is unusual in appearance with a mono pitch style roof that is finished in natural slate. The front of the building facing into Harefield Road is finished in dry dash with two openings. There is a small area for signage on the frontage where the name White Horse Inn is currently displayed.



The surrounding area accommodates a variety of uses. To the south is a Junior Football Ground (Dundee Violet - Glenesk Park), to the east is the Kingdom Hall of Jehovah's Witnesses, to the west are industrial properties and to the north there are residential dwellings.

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 - 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.

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:

- within 30m of existing and proposed housing if the outlet does not exceed 150m² gross floorspace (excluding cellar space) and;
- within 45 metres 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:

- the hours of operation being limited to between 7.00am and 7.00pm; and
- 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.

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of relevance.

Non Statutory Statements of Council Policy

There are no statements of relevance.

SUSTAINABILITY ISSUES

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

SITE HISTORY

06/00701/COU - C/U of public house to Hot Food Take-Away and Office - Withdrawn 19 October 2006.

08/00342/COU - C/U of Public House to Offices - Declared Invalid 2 September 2008.

09/00387/COU - C/U of Public House to Cafe Bistro Operating from 8.00am to 11.00pm, Monday to Saturday, and 11.00am to 10.00pm on Sundays and Alterations to Front and Side Elevations - Approved subject to conditions regarding noise arising from any mechanical or electrical plant

11/00061/FULL - C/U from Vacant Public House to 2 No Retail Units and 1 No Hot Food Takeaway and the Creation of Road Lay-by - Refused 18 April 2011. Subsequent appeal dismissed 17 August 2011.

PUBLIC PARTICIPATION

The Statutory Neighbour Notification procedure was carried out. The application was advertised in the local press as being contrary to Development Plan Policy.

In total 3 letters of objection and one petition containing approximately 120 signatories have been received. The concerns can be summarised as falling into the following:

Traffic and Parking Issues

- It will be a hazard for there to be cars parked at a busy junction.

Amenity Issues

- Increased noise and litter levels.
- The closest houses are only 30 metres away from the building.
- A take away will attract youths to congregate.

Other Issues

- The proposal is not within a district centre and does not comply with Policies 1 and 53 of the Local Plan.
- The development would have a detrimental impact upon existing shops resulting in job losses in the area.

Several objectors raised the issue of the value of residential properties which is not a material planning consideration and cannot be taken into consideration.

CONSULTATIONS

The Environment Department have advised that a noise condition should be applied to any grant of permission regarding noise from mechanical and electrical plant during night time.

OBSERVATIONS

Statutory Requirements

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance the development plan unless other material considerations indicate otherwise.

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 53 (Licensed and Hot Food Premises Outwith the City Centre).

The nature of the application requires that the proposals are considered under the terms of Policy 53 of the Dundee Local Plan 2005. This Policy requires that, in general, no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food are acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150m² gross floorspace or 45m if the 150m² figure is exceeded.

The restaurant with associated hot food takeaway facility in question is proposed to have a gross floor area of approximately 289m².

A visit to the site has revealed that there are a number of dwelling houses evident to the north of the site on the opposite side of the street. These properties are located approximately 30m distant from the application premises when measuring from building to building. Policy 53 states that premises of this size should be located a minimum of 45m distance away from the nearest residential properties. The application therefore fails to comply with of the terms of this Policy. This is in respect of both the restaurant and takeaway facility being proposed.

Policy 1 (Vibrant and Sustainable Communities) - this policy promotes vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New developments should seek to minimise any affect on the environmental qualities currently enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

As discussed, the nearest residential properties are located approximately 30 m to the north. These dwellings are separated from the application site by Harefield Road which is a busy district distributor road that runs in an east to west direction across this part of the city.

It is considered that the proposed alterations to the frontage of the premises which comprise of the provision of a large area of glazing, are acceptable and will improve the main north elevation of the building.

As they are fairly minor in nature, the alterations will not have a significant effect upon the appearance of the property in relation to the wider area but bringing the building back into active use will help to enliven the frontage to the benefit of the surrounding area. The design changes are therefore considered to be acceptable.

In relation to the layout of the site, there are to be no significant alterations. The existing car parking area to the rear of the property is proposed to be utilised for parking and the storage of bin facilities. The visual

emphasis of the building may change slightly with the inclusion of an additional door to the west elevation but this is considered to be acceptable.

The building benefits from off street car parking at the present time to the rear of the building which is capable of providing space for approximately 7 cars.

Harefield Road is approximately 11m wide and Balfield Road is approximately 9.5 metres wide. There is an existing footway adjacent to the site with a width of approximately 2.5 metres. In terms of the restaurant use it is anticipated that the majority of customers are likely to visit the premises in the evening. Due to the long nature stay of a visit to the restaurant they are likely to use the parking facility to the rear of the premises or find a suitable long stay parking space in the surrounding area of the site. The restaurant element of the proposal is therefore found to be acceptable in terms of road safety.

However, the takeaway as sought by the applicants could function on an unrestricted basis in terms of the proportion of the overall business and so must be considered in this regard also.

As discussed, the site occupies the corner of a crossroads. The east/west through route is Harefield Road, which is a busy main road and bus corridor.

The site has an existing vehicular access onto Balfield Road that previously served the public house. The submitted plans do not indicate the number of spaces to be provided in the rear car parking area but it is likely to be capable of providing approximately 7 spaces.

The access is less than 30m from the Harefield Road junction. There is a lack of on street parking restrictions in the area and given the fact that the applicants are seeking permission for restaurant and takeaway on an unrestricted basis, there is potential for the property to be providing a large sized takeaway facility. The short stay nature of those visiting the property to utilise the takeaway facility means that customers are likely to park on street in front of the housing to the other side of the site. The proposal would therefore increase vehicle congestion in the area. In addition, the time periods when the takeaway and restaurant are most likely to be in

demand are likely to be similar to the peak times of the day when traffic will be more congested, particularly early evening. On-street parking would be likely to result in pedestrians crossing the busy road away from the safety of the nearby crossing islands. This would be compounded by the small size and inconvenient layout of the small parking area to the rear of the site. Taking the above into consideration it is concluded that there will be traffic congestion and road safety issues arising as a result of the takeaway being proposed.

The applicants have indicated that they wish to provide hot and cold food and snacks for takeaway between the hours of 8.00am to 10.30pm Monday to Saturday and 11.00am to 10.00pm on Sundays.

In considering both the takeaway and restaurant element of the application it must be noted that the building can be used as a public house at the present time since that was the last known use without planning permission. The effect of patrons smoking outside beyond the hours of 10 pm which would be likely with a public house is considered to be greater than the likely impact that granting a restaurant and hot food takeaway in this location would have, particularly when it is proposed to close at 10.30pm in the evening.

In terms of smell, due to the distance to the nearest dwellings and the fact that the property was previously used to prepare food on the premises, it is considered that there would be no significant impact upon the nearest residential occupiers in this regard. In the event of an approval, a condition would be attached to any grant of permission to ensure that the details of the ventilation system were sufficient.

In addition any noise generated by the mechanical and electrical plant from within the proposed hot food takeaway shall be restricted by condition to NR35 at night as measured 1m external to the facade of neighbouring residential properties. This shall prevent any instances of mechanical or electrical noise disturbance from adversely affecting neighbouring residential properties.

Accordingly, it is considered that the application fails to fully comply with Policy 1 of the Dundee Local Plan Review 2005.

The proposals fail to meet the requirements of Policy 1 (Vibrant and Sustainable Communities) and also fail to adhere to the requirements of Policy 53 (Licensed and Hot Food Premises Outwith the City Centre) of the Dundee Local Plan Review 2005 due to the relative distance to the nearest residential property.

Other Material Considerations

A Views of Objectors/Supporters

Traffic and Parking Issues

- It will be a hazard for there to be cars parked at a busy junction

Issues in relation to traffic and parking have been discussed in relation to Policy 1 where it was concluded that the application fails to comply with the requirements due to an adverse effect upon traffic safety and vehicle congestion.

Amenity Issues

- Increased noise and litter levels.
- The closest houses are only 30ms away from the building.
- A take away will attract youths to congregate.

The issue of noise has been discussed above in relation to Policy 1. In terms of litter it is considered that in the event of any approval, it would be appropriate in this instance, particularly given the close proximity to a school, that litter bins should be provided at the expense of the applicant to the front of the hot food takeaway to discourage littering. The property was most recently in use as a public house and the property therefore has existing use rights as a public house. It is considered that a public house use would be likely to generate increased noise levels than the restaurant and hot food takeaway use being proposed due to the later opening hours and likelihood of patrons smoking outside the premises. There are therefore no issues of significant weight in terms of amenity.

- The development would have a detrimental impact upon existing

shops resulting in job losses in the area.

The proposal is not of a significant size and its impact upon the provision of jobs in the surrounding area shall be limited. It is not considered to be a significant issue which might contribute towards withholding planning permission for the use.

- The proposal is not within a district centre and does not comply with Policies 1 and 53 of the Local Plan.

These issues have been discussed in relation to the Policies of the Development Plan. It is concluded that the application fails to comply with Policy 1 and Policy 53.

B Applicants Supporting Statement

The statement indicates that the applicant wishes to proceed with the application previously approved to open a bistro restaurant but feels that without the trade generated from a take-away, the proposal would not be viable. The statement makes reference to a restaurant that was previously provided in the Stack Leisure Park which operated without take - away provision and no longer is in existence.

There is no evidence to support the view that a restaurant would not be successful here without take away facilities. Notwithstanding this, as discussed above, there are concerns in relation to road safety in relation to the provision of a takeaway that weigh against the approval of the application.

The statement goes on to outline the proposed opening hours which have been discussed elsewhere in this report.

C Planning Benefits of Proposals

Given the dilapidated condition of the building and unkempt nature of the surrounding land, it is clear that the refurbishment of the building, together with an active use, would be a positive addition to the area. It could also be considered that the issues associated with a public house in relation to noise and disturbance from patrons could be decreased if the proposals to change the uses were to be approved.

D Appeal Decision of Previous Application

Application 11/00061/FULL was recommended for approval but refused by Committee Members in relation to Policy 45 of the Dundee Local Plan Review 2005. Subsequently, it was the subject of an appeal to the Scottish Government. The application details have been listed above in the Site History section of this report. The appeal was dismissed on the basis that, amongst other things, the proposals would have a detrimental effect upon the traffic situation in the locality and that on street parking would be potentially dangerous.

It is considered that, taking into consideration the above appeal decision and the fact that the size of the proposed takeaway in the current application is much larger, above the proposals as put forward would have the potential to result in road safety and traffic congestion problems.

Taking the above into consideration, it is concluded from the foregoing that the material considerations are of insufficient weight to justify the approval of planning permission. It is therefore recommended that planning permission be refused in accordance with the provisions of the Development Plan.

Design

As discussed, there are limited alterations being proposed to the building. The addition of additional door openings and works to the frontage are considered to be acceptable.

CONCLUSION

It is concluded from the foregoing that the application will not detract visually from the surrounding area but that the uses proposed, in particular the takeaway element of the proposal, will result in road safety and traffic congestion problems contrary to the provisions of the Development Plan.

RECOMMENDATION

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

Reasons

- 1 The application fails to comply with Policy 1 of the Dundee

Local Plan Review 2005 in terms of road safety and traffic issues resulting from the short stay nature of takeaway customers at peak traffic times of the day and there are no material considerations to justify a decision contrary to this..

- 2 The application is in breach of the distances to residential property under the terms of Policy 53 of the Dundee Local Plan Review 2005 and there are no material considerations to justify a decision contrary to this.