

Hot Food Takeaway Development

KEY INFORMATION

Ward North East

Address

106 Fintry Road
Dundee
DD4 9EZ

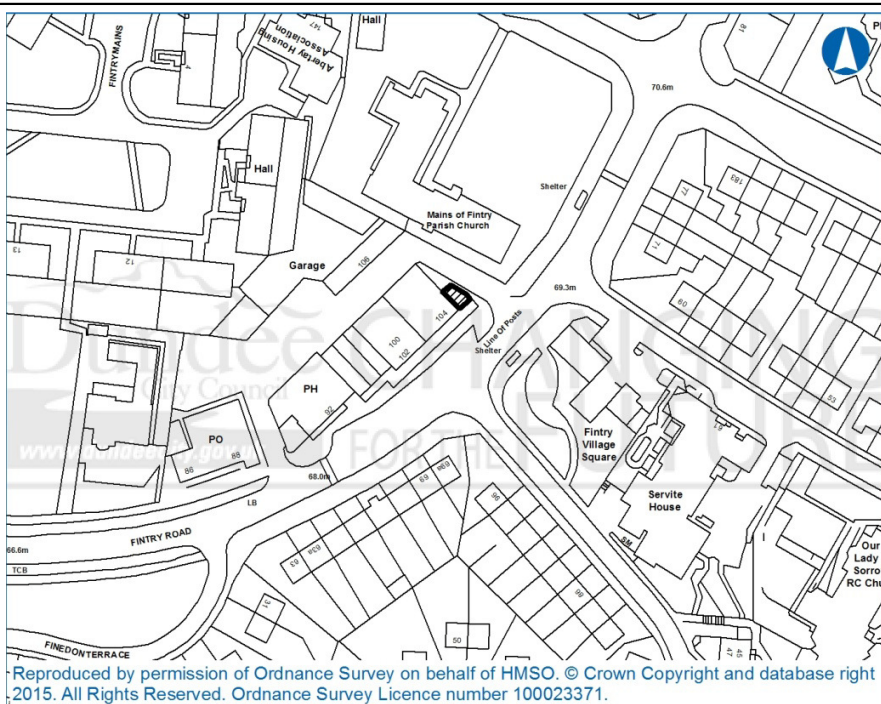
Applicant

Mr Ian Tait
Butties Takeaways
2 Emmock Lane
Dundee
DD4 9FN

Agent

Registered 21 Dec 2015

Case Officer Craig Swankie



SUMMARY OF REPORT

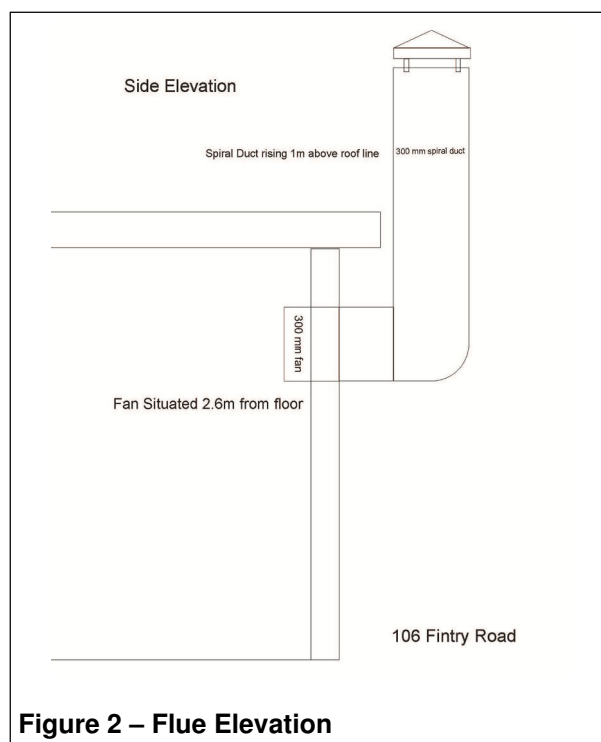
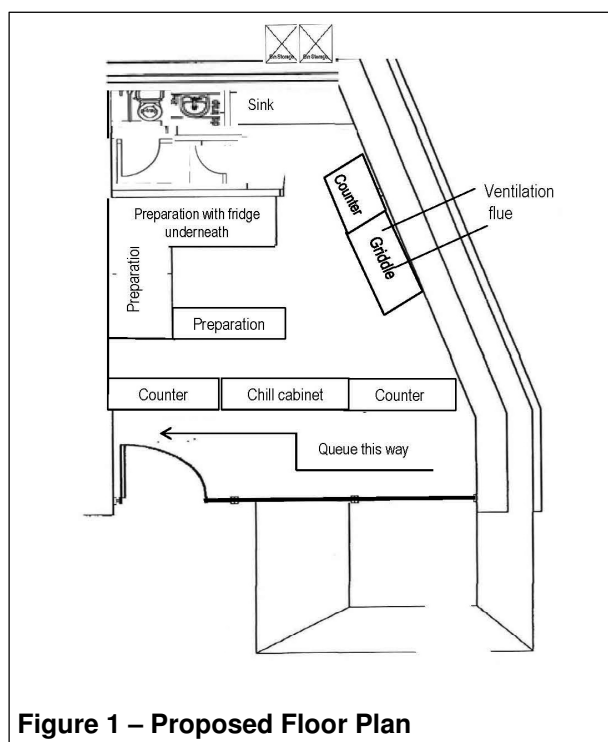
- The application proposes the change of use of a vacant unit (Class 1) to create a Hot Food Takeaway (Sui Generis).
- No physical alterations are proposed to the unit, with the exception of a flue on the north east elevation.
- The application was the subject of neighbour notification and in response four letters of objection were received.
- The application is being referred to the Development Management Committee following an objection from Fintry Community Council.
- Policies 28 and 47 of the Adopted Dundee Local Development Plan (2014) are relevant to the determination of the application.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=NYD4G4GC0AX00>.

RECOMMENDATION

The proposed development complies with the relevant policies of the Development Plan. There are no material considerations that would justify the refusal of this application. The application is therefore recommended for **APPROVAL** subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for a change of use from a Retail Unit (Class 1) to a Takeaway (Sui Generis). The applicant proposes to prepare and sell hot and cold rolls, baked potatoes, paninis and provide salad bar options. Opening hours are proposed as 06.00 until 17.00 seven days a week. No external changes to the unit are proposed with the exception of a 2.2 metre long flue on the units north east elevation, which will sit 1 metre above the roofline. Any signage would be subject to a separate application for advertisement consent.
- 1.2 In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee as an objection has been received from Fintry Community Council and the application is recommended for approval.



2 SITE DESCRIPTION

- 2.1 The application site relates to a commercial unit at 106 Fintry Road Dundee. The unit has a floor area of 23m² and is located at the north east end of a row of commercial units which contains a mixture of businesses including a bakers, bookmakers and grocers. The unit is constructed from brickwork, presently painted blue on the front elevation and has a flat roof. The unit contains a glazed aluminium frontage and glazed public access door.
- 2.2 The application site previously formed part of a retail unit (Class 1) and has been vacant for several years. The shops are set back from the road with parking provided and a service area to the rear. There are no flats above the adjoining shop units. The nearest houses are to the south of the site, with garden ground 34.4 metres and the dwelling houses 40 metres from the application site.

- 2.3 The surrounding area is largely residential with dwelling houses to the south and west of the site, to the north of the site is Mains of Fintry Parish Church and to the east is Fintry Village Square with residential properties beyond.



Figure 3 – Photograph of North East Elevation



Figure 4 – Photograph of Front Elevation

3 POLICY BACKGROUND

- 3.1 The following plans and policies are considered to be of direct relevance:

DUNDEE LOCAL DEVELOPMENT PLAN

Policy 28: Public Houses, Restaurants and Hot Food Takeaways outwith the City Centre

Policy 47: Environmental Protection

- 3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 Planning application 04/00292/COU for the change of use from retail outlet to hot food takeaway was refused in May 2004.
- 4.2 Planning application 09/00294/FULL to create a takeaway chip shop was approved in July 2009, this permission expired on 10 July 2014.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken. Four letters of objection have been received raising concerns with regard to overprovision of food outlets in Fintry and the effects a further takeaway would have on parking at the site.
- 5.2 Members will already have access to the letters of objection and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

- 6.1 **The Head of Environmental Protection** - recommends that a condition is applied to any planning permission granted to restrict noise levels from any mechanical and electrical equipment at the application site to protect the amenity of residential properties.
- 6.2 **Fintry Community Council** - objects to the proposal on the basis that the proposed change of use would create an overprovision of food outlets in Fintry and exacerbate existing parking problems at the site.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless 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.

DUNDEE LOCAL DEVELOPMENT PLAN

- 7.2 **Policy 28 - Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre** - only supports proposals for hot food takeaways where:
- the proposal has a gross floor area up to 150m² and is more than 30 metres from existing or proposed housing; or
 - the proposal has a gross floor area in excess of 150m² and is more than 45 metres from existing or proposed housing.
- 7.3 The proposed hot food takeaway at 106 Fintry Road relates to a commercial unit 23m² in area. The nearest housing to the site is 40 metres to the south on Fintry Road.
- 7.4 **The proposed hot food takeaway satisfies the requirements of Policy 28.**
- 7.5 **Policy 47 (Environmental Protection)** - states that all new development that would generate noise, vibration or light pollution is required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New development in close proximity to existing sources of noise, vibration or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on the viability of existing businesses or uses.
- 7.6 The proposals include the installation of a flue, griddle, food preparation area and chill cabinet. The proposed alterations do not raise any concerns in terms of light pollution and will not create any vibrations. The proposed hours of operation 06.00 to 17.00 are acceptable and do not raise any concerns regarding impact on amenity.
- 7.7 The modest alterations proposed reflect the small scale of the unit and will not have any detrimental impacts on surrounding business or residential properties. As the proposals include the installation of equipment such as extraction fans and chill cabinet it is recommended by the Head of Environmental Protection that a condition is appended to any

planning permission granted to mitigate against any potential noise issues. A condition to control hours of operation is also recommended to minimise any potential impact on amenity.

7.8 **With the addition of a condition, the proposal would satisfy the terms of Policy 47.**

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

OTHER MATERIAL CONSIDERATIONS

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

A - VIEWS OF FINTRY COMMUNITY COUNCIL

7.11 **Comment:** the Community Council objects to the proposals, stating traffic problems on Fintry Road have made parking difficult. The proposed takeaway would exacerbate this issue.

7.12 The Community Council also outlines the existing provision of shops located along Fintry Road and highlight that there are 10 existing catering/food outlets; any more would lead to overprovision.

7.13 **Response:** the application site is one of eight commercial units at 92-106 Fintry Road, including a pub, takeaway, bookmakers and grocers. The units are presently served by an area of designated parking 50 metres in width, with space for around 18 vehicles.

7.14 The proposed takeaway does not raise any parking concerns; there is sufficient availability of existing parking to serve the proposed takeaway and adjoining shops. The takeaway which is of a modest scale will not generate a level of traffic that will be detrimental to the existing parking facilities or pedestrian safety at this location. Furthermore, customers visiting the takeaway will only require short stay use.

7.15 The overprovision of food outlets is not a valid objection. As assessed in the main body of this report, the takeaway will not have a detrimental impact on amenity and does not raise any concerns in terms of noise or odour. The proposed takeaway by virtue of its operating hours, will not exacerbate the existing level of late night noise and disturbance generated by the existing takeaway and public house located within the same parade of commercial units. As the proposed hot food takeaway will be operational during day time hours only (between 06.00hours to 17.00hours) it will not generate evening or late night noise or disturbance to the detriment of residential amenity.

7.16 The concerns of the Community Council are not supported.

B - VIEWS OF OBJECTORS

7.17 Three objections were received from neighbours of the site, raising concerns related to:

7.18 **Comment:** the proposed takeaway would lead to overprovision of food outlets on Fintry Road and have a detrimental impact on competition.

7.19 **Response:** over provision is not a material consideration and cannot be taken into account in the determination of planning applications. The cumulative affects on amenity generated by the existing hot food takeaway and public house in addition to the proposed hot food takeaway have been discharged in the assessment of the proposal against the requirements

of the Development Plan. It has been concluded that the application site is suitably located so as not to impact on the amenity of neighbouring properties.

7.20 The concerns of the objectors are not supported.

7.21 **It is concluded from the foregoing that there are no material considerations that would justify refusal of planning permission.**

8 CONCLUSION

8.1 It is concluded from the foregoing that the proposal complies with the requirements of the Dundee Local Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

8.2 The proposal satisfies the requirements of the Development Plan.

9 RECOMMENDATION

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

- 1 That a condition is applied restricting noise levels from any mechanical and electrical equipment at the application site.
- 2 The proposed takeaway shall only operate between 0600 and 1700 hours Mondays through to Sundays.

REASONS

- 1 To protect the amenity of residential properties.
- 2 In order to protect the amenities of the residents of existing houses adjacent to the site.