

Proposed New Shop Unit

KEY INFORMATION

Ward North East

Address

The Old Police Station
Fintry, Dundee

Applicant

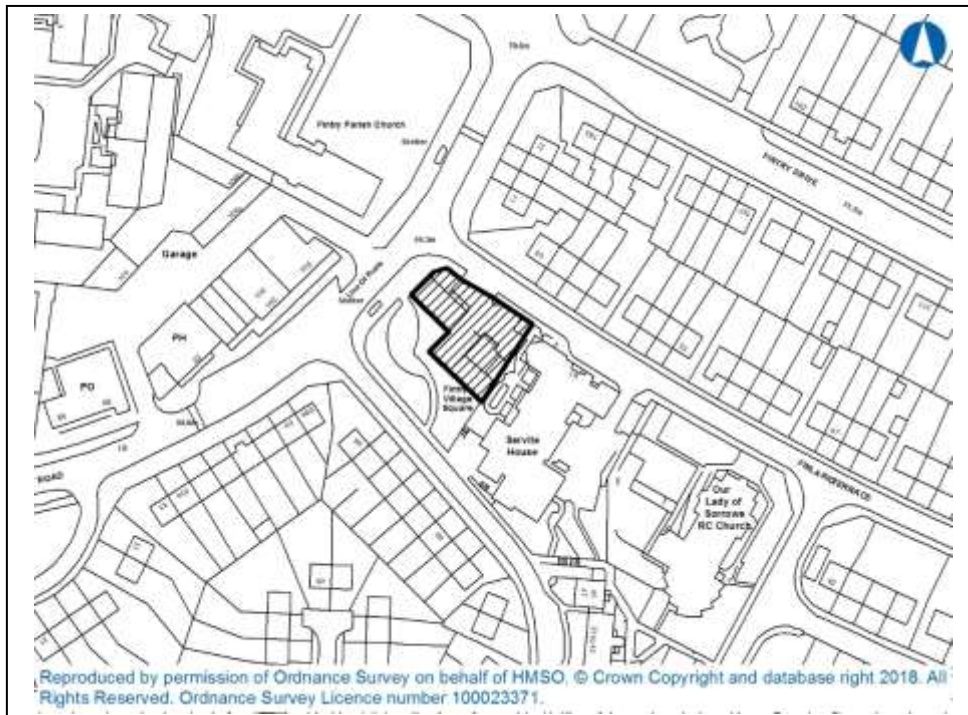
Seafeld Estates Limited
3 Old Hawkhill
Dundee

Agent

Mark Walker Architect
276B Blackness Road
Dundee

Registered 26 Oct 2018

Report by: Head of Planning
and Economic Development



SUMMARY OF REPORT

- The application is for a single storey shop with a floor area of 72m² adjoining the existing bookmakers at the junction of Fintry Road and Finlarig Terrace.
- The site is partly an area of grass with three parking spaces. The wider site, including the bookmakers and dental centre is under the ownership of the applicant and can accommodate 6 parking spaces.
- The proposal complies with the Dundee Local Development Plan 2014. There are no material planning consideration that would justify refusal of the application.
- Planning permission was granted on appeal (Planning Ref: 13/00807/FULL) for a proposed new shop. The permission has since lapsed. The only material difference has been a change in the site boundary to the south east to accommodate an extension to the existing dental practice.
- Fintry Community Council and 2 local residents objected on the grounds of over provision of shops, increased traffic and parking congestion.
- The application requires to be determined by Committee because the Community Council has objected and the recommendation is for approval.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-eb/simpleSearchResults.do?action=firstPage>.

RECOMMENDATION

The application complies with the Dundee Local Development Plan 2014. There are no material considerations of sufficient weight to justify refusal of the application. The application is therefore recommended for APPROVAL subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 The application is for the creation of a single storey retail unit adjacent to an existing building which lies to the south east of the junction of Fintry Road and Finlarig Terrace. The existing site is partly an area of grass and three parking spaces adjacent to an existing bookmakers. The bookmakers is a single storey unit.
- 1.2 The proposed unit will have a floor area of 72m² and is to be used as a shop with pedestrian access to its north side (towards the junction corner). It will not exceed the height of the adjoining building. The proposed unit will be finished in render to match the existing unit with blue powder coated aluminium windows and doors to match the existing adjacent unit and will have concrete roof pantiles which will also match the existing unit.
- 1.3 The site layout shows that the site can accommodate 6 parking spaces in total to serve the bookmakers, dentists and the proposed shop unit. No dedicated parking is proposed for this unit.

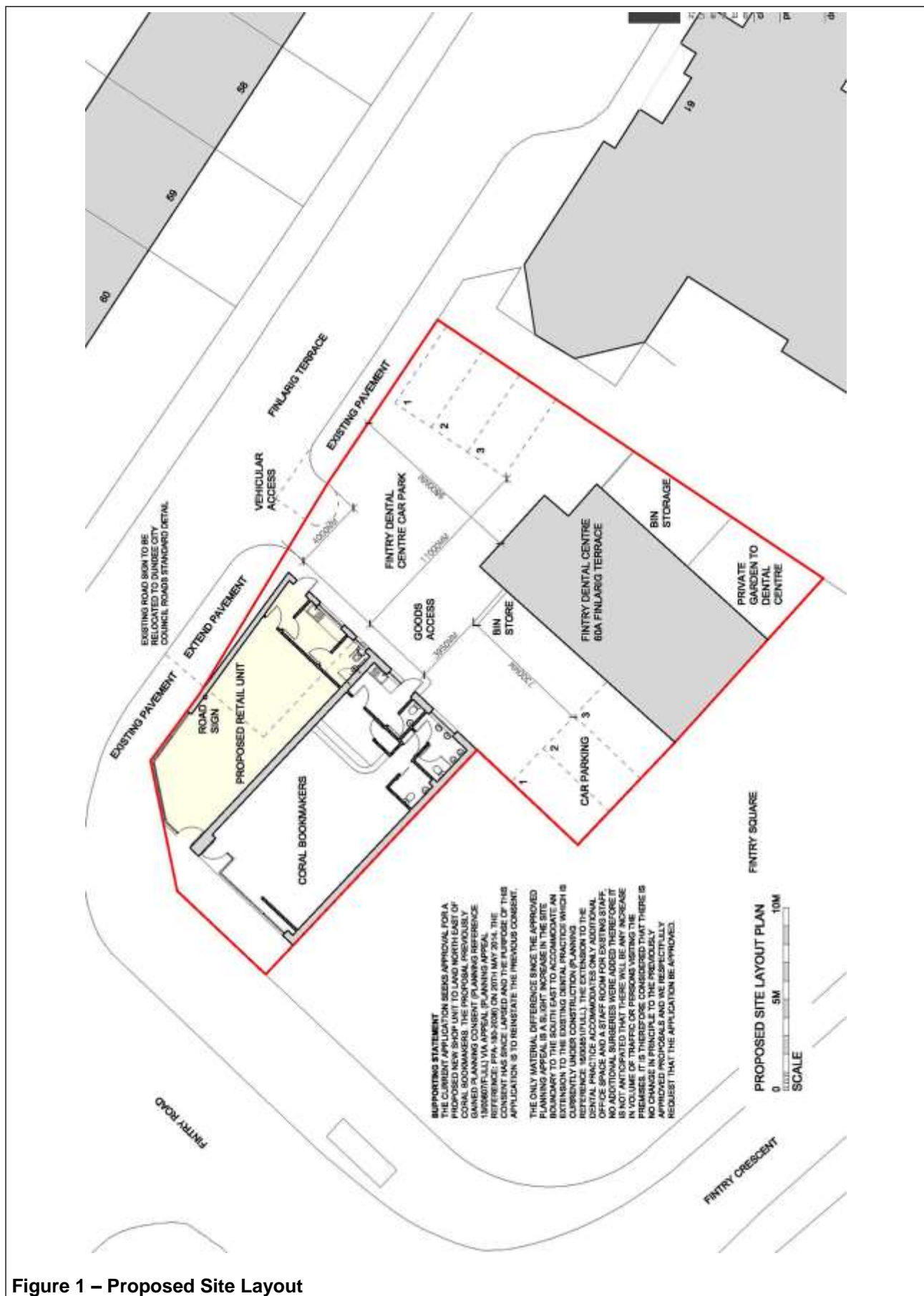


Figure 1 – Proposed Site Layout

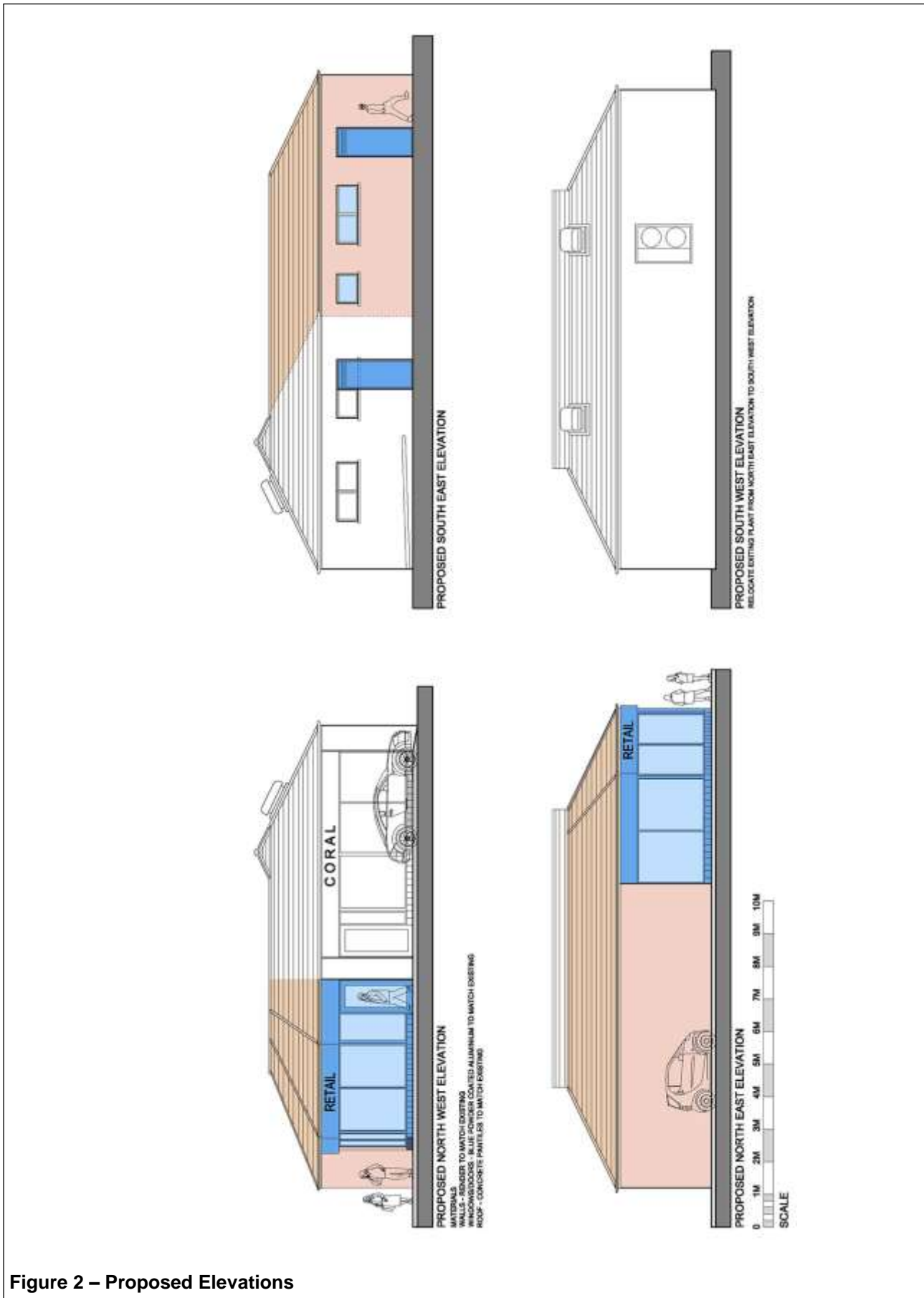


Figure 2 – Proposed Elevations

2 SITE DESCRIPTION

- 2.1 The site is partly an area of grass and three parking spaces adjacent to an existing bookmakers. The bookmakers is a single storey building with a red tiled roof and brick faced frontage. To the west and south-west are retailing units forming part of the local shopping centre for Fintry whilst to the south east is a dental practice. To the north-east and east are residential properties on Finlarig Terrace. A further group of local shops lie less than 100 metres to the north east. To the south of the existing bookmakers is the Fintry Village Square. There is a bus stop immediately outside the site.



Figure 3 – Site Photo

3 POLICY BACKGROUND

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

TAYPLAN STRATEGIC DEVELOPMENT PLAN 2016-2036

No relevant policies.

DUNDEE LOCAL DEVELOPMENT PLAN 2014

Policy 7: High Quality Design

Policy 26: Local Shopping Provision

Policy 29: Low and Zero Carbon Technology in New Development

Policy 47: Environmental Protection

Policy 55: Accessibility of New Developments

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN 2

Policy 1: High Quality Design and Place making

Policy 26: Local Shopping Provision

Policy 39: Environmental Protection

Policy 48: Low and Zero Carbon Technology in New Development

Policy 56: Parking

- 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 Application Ref: 14/00705/FULL – erection of hot food takeaway – refused December 2014.
- 4.2 Application Ref: 13/00807/FULL proposed new shop unit to land north east of Bookmakers. This application was refused at Development Management Committee on 18 February 2014. The application was granted on appeal on 20 May 2014. This permission has now expired.
- 4.3 Application Ref: 08/00323/OUT Outline consent for a single storey extension to the existing building to form a new retail unit was refused at Development Management Committee on 16 June 2008. The application was granted on appeal on 18 November 2008.

5 PUBLIC PARTICIPATION

- 5.1 The Council has carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- 5.2 Three letters of objection, including an objection from Fintry Community Council, were received. They raised the following matters – the plans incorrectly show the name of the bookmakers; incorrect neighbour notification; overprovision of shops; additional congestion; detrimental impact to residential amenity; type of retail unit; safety of residents of sheltered housing complex; don't want a hot food retailer.

6 CONSULTATIONS

- 6.1 **Fintry Community Council** – the Community Council objects to the proposed development on the following grounds: the plans incorrectly show the name of the bookmakers; incorrect neighbour notification; overprovision of shops; additional congestion.
- 6.2 **The Head of Community Safety Protection** – has no objection but seeks conditions restricting the noise from mechanical and electrical plant/services and restricting the deliveries and servicing of the unit.

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 7: High Quality Design** - requires all new development proposals to have a high quality design that contributes positively to the surrounding built and natural environment, with designs complementing their surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.
- 7.3 The development site is an area of flat partly grassed land with three parking spaces. The proposed development of a single storey unit would respect and be consistent with the design of the adjacent unit. The proposed finishing materials, render with blue powder coated aluminium windows and doors and concrete roof pantiles will all match the adjoining unit. As such, there would be no detrimental impact on visual amenity in the immediate area.
- 7.4 **The proposal satisfies Policy 7.**
- 7.5 **Policy 26: Local Shopping Provision** - the site is considered to lie within an existing local centre and accordingly the second part of the policy applies to this proposed development. At local shopping centres and parades the City Council will support:
- measures for upgrading of existing shopping provision; and
 - where appropriate, the provision of additional shopping floor space up to a maximum of 500m².
- 7.6 The proposal would add a small new retail unit to the existing local shopping centre directly adjoining a bookmakers and across the road from a row of shops. The existing local shopping centre is very well occupied with no vacant units and the proposal to add another small shop would add an additional unit to upgrade the existing shopping provision.
- 7.7 The proposed unit at 72m² is well below the limit applied to the provision of additional shopping floor space. A unit of this small size would not be of a scale and nature that it

would have a significant adverse impact on the nature of the area or become a retail destination on its own. As such, it is likely to be used by people who already live nearby or are using other facilities within the local shopping centre. As such, the proposal on its own is unlikely to generate significant additional traffic on top of what already occurs.

7.8 **The proposal satisfies Policy 26.**

7.9 **Policy 29: Low and Zero Carbon Technology in New Development** requires that, for specified developments, carbon emissions will be reduced by defined percentages through the installation and operation of zero-carbon generating technologies. Should members be minded to grant planning permission an appropriate condition would be attached to ensure that a Statement is submitted in accordance with the terms of Policy 29.

7.10 **With the addition of a planning condition, the proposal would comply with Policy 29.**

7.11 **Policy 47: Environmental Protection** - states that all new development or an extension to an existing development that would generate noise, vibration or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing 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 viability of existing businesses or uses.

7.12 The site is within an existing area characterised by residential and commercial uses and is adjacent to an existing bookmakers unit. Due to the proposed size of the unit and the fact that it is not a drive to destination on its own, it would not have an unsatisfactory level of disturbance on the surrounding area. The Head of Community Safety and Protection has advised that due to proximity of residential properties conditions should be attached regarding noise and deliveries. It is recommended that such conditions be attached to cover these matters should Committee be minded to approve the application.

7.13 **With the inclusion of conditions the proposal satisfies Policy 47.**

7.14 **Policy 55: Accessibility of New Developments** - requires all development that would generate travel to be well served by all modes of transport, with priority afforded to sustainable modes of walking, cycling and public transport.

7.15 Due to the size and nature of the proposed unit it is considered that this would not in principle significantly increase traffic congestion or create any significant additional demand for parking. The unit will likely serve the local area, it is not a drive to destination on its own, and will therefore not attract significant additional traffic over that already using the existing shopping area. The submitted plans have indicated that 6 parking spaces will still be provided on the site, three to the south east and three to the south west of the proposed unit. Currently, there are 3 parking spaces adjacent to Finlarig Terrace. As a result, cars can reverse onto Finlarig Terrace impacting on the traffic flow. With this proposal, as all parking spaces will be within the site, vehicles will be able to manoeuvre within the site and exit facing forwards using the vehicle access junction onto Finlarig Terrace with minimum impact on the traffic flow. Conditions will be attached in relation to parking, access and pedestrian safety.

7.16 In addition, the site is readily served by public transport, there is a bus stop immediately to the west of the proposal site.

7.17 **With the inclusion of conditions the proposal satisfies Policy 55.**

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

OTHER MATERIAL CONSIDERATIONS

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

A - PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN 2

- 7.20 The Proposed Dundee Local Development Plan 2 was approved by the Council on 21 August 2017. It sets out the spatial strategy that will guide future development up to 2029.
- 7.21 The proposed Dundee Local Development Plan 2 will in time replace the Dundee Local Development Plan 2014. Approval of the Proposed Dundee Local Development Plan 2 represents the Planning Authority's settled view as to what the final adopted content of the Plan should be. Whilst the Dundee Local Development Plan 2014 (along with TAYplan) constitutes the statutory Development Plan, the Proposed Dundee Local Development Plan 2 has the status of a material planning consideration to be taken into account in the assessment of planning applications.
- 7.22 The provisions of the Proposed Dundee Local Development Plan 2 relevant to the determination of this application are specified in the Policy background section above.
- 7.23 There are no material differences between the adopted and proposed Local Development Plan Policies that would justify approval of the application.

B - VIEWS OF OBJECTORS

- 7.24 Three letters of objection were received, including one from Fintry Community Council. They raised the following matters – the plans incorrectly show the name of the bookmakers; incorrect neighbour notification; overprovision of shops; additional congestion; detrimental impact on residential amenity; type of retail unit; safety of residents of sheltered housing complex; don't want a hot food retailer.
- 7.25 In response to the matters raised:
- a In relation to the applicant's plans illustrating the wrong bookmakers business and the notification of that business, the name of this business is not a relevant material planning consideration. The Council neighbour notifies the owner/applicant/lessee of any premises within 20 metres of an application site and notification was sent to the bookmakers. Consequently, neighbour notification was carried out in accordance with the relevant legislation.
 - b In relation to the over-provision of shops, there is no policy to restrict further development of retail uses in the area and competition between businesses is not a material planning consideration. Due to the small size of this proposed unit (72m²) and the fact there are no vacant units in the immediate area, it is considered that this unit will not impact on the viability of existing shops or services within the area, (or the amenity of residential properties nearby).
 - c In relation to the parking issues, the proposed shop unit is a relatively modest addition to the existing shopping provision in the area, and this would not in principle significantly increase traffic congestion or create any significant additional demand for parking. The existing shops on Fintry Road to the west of this site benefit from readily available off-

street parking and it is likely that the majority of customers are local with many walking to the shops. The unit would not be a drive to destination on its own. The matters raised in the letters of representation are not of sufficient weight to justify refusal of the application.

- d The site contains an existing bookmakers and a small dental surgery (which are separate buildings), and there is an existing vehicular access from Finlarig Terrace into the service area for these units, which also contains 6 parking spaces. The submitted plans have indicated that the existing 6 parking spaces can still be accommodated within the whole site. Whilst no additional spaces are proposed, the 6 spaces are considered to be sufficient to serve the existing two businesses on site and proposed shop. The service area in this case would remain off-street and to the rear, it should still be possible for service vehicles to enter and leave in a forward direction, and turn within the site. The service area would remain segregated from pedestrian activity, other than people accessing the dental centre or cars parked in the new location within the service area. This is similar to the current situation, and is unlikely to result in any significant conflict.
- e In relation to the type of retail unit, there is no indication as to the operator of the proposed retail unit. The operator of the retail unit is not a planning consideration. In addition, the application is not for a hot food takeaway. The proposal is for a retail unit, and the application has been assessed on this basis. Any separate planning application for a hot food take away would be determined on its own merits.

7.26 The issues raised in the letters of objection have been considered and addressed in the report and are not of sufficient weight to justify refusal of planning permission.

7.27 **Planning History** - as noted in the planning history, applications for the erection of a shop on this site were refused by Committee in 2008 and 2014. Planning permission was granted on appeal in for both and the Reporter considered that the scale and nature of the proposed development would be unlikely to have a sufficient impact on the existing traffic and parking to justify refusal of the application. The permissions were not implemented and have now expired.

7.28 The previous appeal decisions from 2014 are strong material considerations which weigh in support of the application.

7.29 **It is concluded from the foregoing that there are no material considerations of sufficient weight to justify refusal of planning permission.**

8 CONCLUSION

8.1 The proposal satisfies the requirements of the 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.

9 RECOMMENDATION

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

- 1 **Condition** – the total noise from the mechanical and electrical plant/services shall not exceed NR45, during daytime, and shall not exceed NR35 during night-time, as

measured 1 metre external to the facade of adjacent residential property. Furthermore, it shall not exceed NR25 within any adjoining residential property.

For the avoidance of doubt night time shall be 2300 to 0700 hours.

Reason – in the interest of safeguarding residential amenity.

- 2 **Condition** – deliveries and servicing of the shop, including servicing, loading, unloading or lay-up, shall be between 0700 and 2100 hours Monday to Saturday and 0900 and 1600 hours on Sunday.

Reason - in the interests of residential amenity.

- 3 **Condition** – details of the proposed vehicle access must be agreed prior to any works on site and the access must be formed and constructed as a Type A junction to Dundee City Council standards and specifications.

Reason – in the interests of vehicle and pedestrian safety.

- 4 **Condition** – details of the proposed footway alterations adjacent to the site and relocation of road signs must be agreed prior to any works on site.

Reason - in the interests of vehicle and pedestrian safety.

- 5 **Condition** – any existing accesses that are no longer required as part of the proposed development must be made good as footway to Dundee City Council specifications. Details of these alterations must be agreed prior to any works on site.

Reason – in the interests of vehicle and pedestrian safety.

- 6 **Condition** – the hard surface within the curtilage should be made of porous materials or provision should be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

Reason – to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

- 7 **Condition** - the 6 parking spaces illustrated within the site on Drawing Number 005 Revision A dated 27 November 2018 hereby approved shall be formed and constructed and made available prior to the commencement of the development hereby approved. Once formed, those spaces shall remain and be maintained as such thereafter.

Reason - in order to ensure appropriate parking provision within the site.

- 8 **Condition** - prior to the commencement of any works on site, a Sustainability Statement demonstrating the extent to which the development will meet the requirements of Policy 29 of the Dundee Local Development Plan (2014) shall be submitted for the approval of the Council and the works shall be completed in accordance with the approved Statement.

Reason – in order to demonstrate that the new development will meet the required carbon emissions reduction standards in the interests of the environment.

Informative - a Minor Footway Works (MW) application (found via the following link on DCC website: <http://www.dundee.gov.uk/citydevelopment/vehicularaccess>) must be submitted to Dundee City Council as Roads Authority for work on the adjacent public road or footway and consent for this must be obtained prior to the commencement of any work on the public road or footway. For further details please contact 01382 433341 or developmentroads@dundee.gov.uk