

KEY INFORMATION

Ward Craigiebank

Proposal

Change of use from office space to manager's flat

Address

East Kingsway Garage
172 Arbroath Road
DUNDEE

Applicant

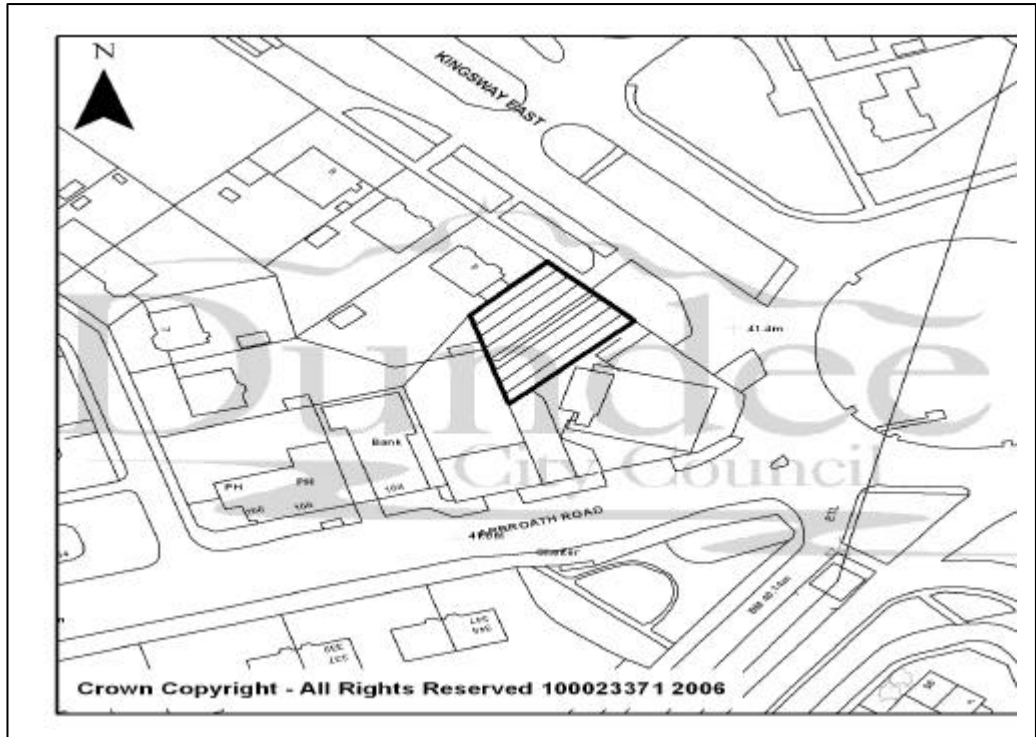
Metro Motors Ltd
c/o 18 South Tay Street
DUNDEE
DD1 1PD

Agent

Leadingham Jameson
Rogers & Hynd
18 South Tay Street
DUNDEE DD1 1PD

Registered 10 Oct 2006

Case Officer C Walker



Proposed Manager's Flat at East Kingsway Garage

A change of use from office space to manager's flat is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

Although the proposal conflicts with Policy 4 of the Local Plan, the restricted occupancy of the proposed unit provides a justification for the approval of the development. The proposal will not adversely impact on the amenities of neighbours. The application is recommended for **APPROVAL** with conditions.

SUMMARY OF REPORT

- Planning permission is sought to change the use of a vacant upper floor office to a managers flat. The overall site comprises a car showroom building with an open car sales area to the northwest.
- Policies 1 and 4 of the adopted Local Plan are relevant.
- A letter of objection was received from the occupier of an adjoining house who is concerned that windows will overlook his rear garden area, that the proposal will lead to increased traffic and parking problems and that it could lead to an increase in the hours of operation of the car sales business.
- Although the proposal conflicts with Policy 4 of the Local Plan in terms of providing a flat, the restricted occupancy of the proposed unit provides a justification for the approval of the development. The proposal will not adversely impact on the amenities of neighbours.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of a vacant upper floor office to a managers flat. No elevational alterations to the premises are proposed and the upper floor accommodation extends to some 80 sq metres, providing a living/dining room, kitchen, bathroom and 2 bedrooms. The plans indicate the provision of an outdoor roof terrace (some 80 sq. metres in extent and accessed from a door from the living/dining room) above an existing flat roofed section of the showroom building. A car parking space is allocated in the car sales area for the use of the manager.

The applicants have confirmed that the flat will only be used by the manager of the car sales business and that no one else shall reside in the flat.

SITE DESCRIPTION

The site comprises vacant upper floor offices at the Scott Fyffe Motors premises. The overall site is some 500 sq metres in extent and comprises a car showroom building with an open car sales area to the north west.

The site lies close to the busy roundabout where Kingsway East, Arbroath Road, Greendykes Road, Strips of Craigie Road and Douglas road meet. To the south and south east is a petrol filling station, to the west is a car parts and servicing centre and to the north west is a dwelling at 4 Kingsway East. Vehicular access to the site is from Kingsway East.

POLICY BACKGROUND

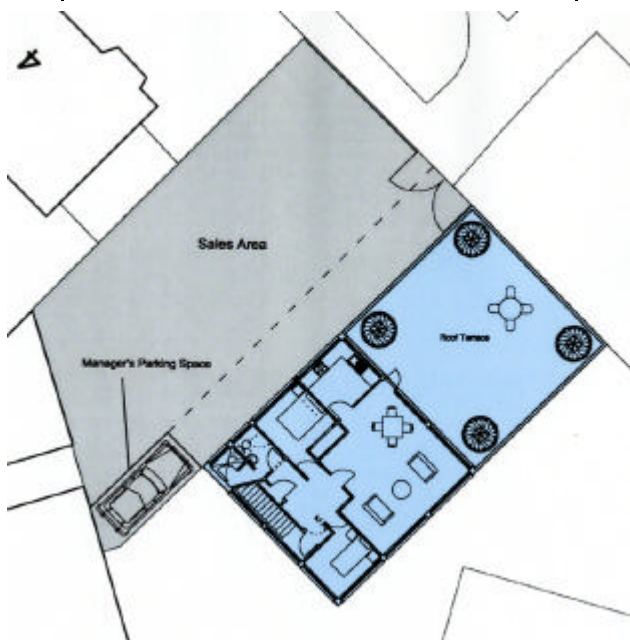
Dundee and Angus Structure Plan 2001-2016

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 seeks to facilitate the introduction of non residential uses in



residential areas provided that amenity is protected.

Policy 4 : Design of New Housing sets out criteria for new housing developments.

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 history of planning applications.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the development was advertised as potentially departing from Policy 4 of the Local Plan. A letter of objection was received from the occupier of the house to the north west of the site. The objector is concerned that windows on the premises overlook his rear garden area adversely impacting on his privacy and that the proposal will lead to increased traffic and parking problems. He is also concerned that the proposed development could lead to an increase in the hours of operation of the car sales business.

Copies of this letter are available for inspection in the Members' Lounges and the issues raised are discussed in the "Observations" section below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards notes that the site is at a busy location close to a major road junction and adjoins commercial uses. He considers that a planning condition should be imposed requiring the building to be insulated from noise sources.

OBSERVATIONS

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



Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application.

- 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 1 seeks to facilitate the introduction of non residential uses in residential areas provided that amenity is protected. This policy is not directly relevant to the current proposal which seeks to introduce a residential use. However it could be argued that the current proposal can be assessed in the context of Policy 1 as it is the policy that seeks to minimise any affect of new development on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

In this case the only relevant issue under Policy 1 relates to parking and traffic movement issues. The proposed development does not alter the exiting access arrangements to the site and it is not considered that the occupancy of this upper floor flat by a single person will lead to any traffic movement or parking problems. Indeed if an office use was reinstated on the premises it is likely that there would be a significant increase in traffic generation and parking at the site. It is concluded from the foregoing that the proposal complies with Policy 1 of the Local Plan.

In terms of Policy 4 there is a presumption against flatted developments. If flats are to be permitted then they should have 100 sq. metres of garden ground or 10 sq. meters per flat, whichever is the greater and a minimum of 1 parking space per unit. The proposed development is contrary to the presumption against flats and the garden ground provision does not meet the required standard.

It is concluded from the foregoing that the proposal does not comply with Policy 4 of the Local Plan.

Other Material Considerations

- a The Restricted Nature of the Proposed Use

The proposed development is unique in character in that it does not involve the provision of a standard flat but rather a flat linked to the car sales business. The applicants have indicated that the flat will only be used by the manager of the car sales business and that no one else shall reside in the flat. If Members are minded to approve the application then a planning condition to this effect can be imposed.

Policy 4 contains a presumption against flats at this location. However it is considered that as the proposed development involves a single unit only and as it is linked to the business on the site, then there is a case for approving the application despite the terms of Policy 4. Normally garden ground of 10 sq. metres per flat is acceptable and in this case the outdoor terrace is some 80 sq. metres in extent. Although this area is below the minimum threshold of 100 sq. metres for new flatted developments, it is considered perfectly adequate for a flat occupied by a single person.

- b The Concerns of the Objector

The concerns of the objector about traffic and parking problems have already been addressed in the assessment of the proposed development under Policy 1 of the Plan and it was concluded that there was no adverse impact.

The concern about the impact on privacy is not supported. The proposed new flat is in an existing building and no changes to windows are proposed. Thus whatever overlooking will occur must already be an issue in terms of the use of the existing premises as offices. Although it may be contended that a residential use will occur throughout the day and at weekends as well, an office use could involve much higher numbers using the premises. More importantly,

the proposed flat is opposite a blank wall on the adjoining house to the north west. There will be no overlooking of the objectors house. Any views into the objector's garden are at a very oblique angle and through a very narrow gap (approximately 1 metre wide) between the gable of the objector's house and the ATS car parts and servicing centre building to the west. Although it is possible to see over the ATS building, any views are to a more distant area of the objector's garden and the relevant windows relate to a toilet/bathroom and bedrooms. In these circumstances it is considered that any potential overlooking will not be significant.

Finally the objector is concerned that the proposed development could lead to an increase in the hours of operation of the car sales business. There are currently no restrictions on the hours of operation of this business (nor on the adjoining petrol filling station with car wash and the ATS business). In addition the site is close to a very busy road. It is not considered that there is any justification in imposing an hours of operation condition on the existing car sales business. If the business starts to trade at later hours, then any noise disturbance can be considered under separate legislation.

- c The Concerns of the Head of Environmental Health and Trading Standards about Noise

The Head of Environmental Health and Trading Standards considers that there may be a noise issue at this location and that this matter needs to be resolved by imposing a planning condition requiring the building to be insulated from noise sources. This concern principally relates to disturbance from traffic noise. However the proposed flat is no closer to the Kingsway than the adjoining houses to the north west. In addition the unique nature of the occupancy and its linkage to the adjoining business means that a standard residential unit will not be provided at this location. However it is appropriate to consider noise matters at this location and it is agreed that a planning condition

be imposed to cover this matter should Members be minded to approve this application.

It is concluded from the foregoing that sufficient weight can be accorded to material considerations such as to justify the grant of planning permission. It is therefore recommended that planning permission be granted despite the conflict with Policy 4 of the adopted Local Plan.

Design

As no elevational alterations to the premises are proposed, there are no design issues associated with the development.

CONCLUSION

Although the proposal conflicts with Policy 4 of the Local Plan, the restricted occupancy of the proposed unit provides a justification for the approval of the development. The proposal will not adversely impact on the amenities of neighbours.

RECOMMENDATION

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

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 The occupation of this dwelling shall be restricted to a single person only who shall be in full time employment as manager of the car sales business on this site.
- 3 Before the use commences, the building shall be insulated to achieve sound attenuation in accordance with a scheme approved by the City Council and thereafter implemented.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 The proposal contravenes the presumption against flats in the adopted Dundee Local Plan Review 2005 and is in a location adjacent to commercial uses that is unsuitable for mainstream residential accommodation and the proposed change of use is

only permitted on the restricted use basis as proposed by the applicants.

- 3 To ensure an appropriate standard of residential amenity for the future occupiers of the premises.