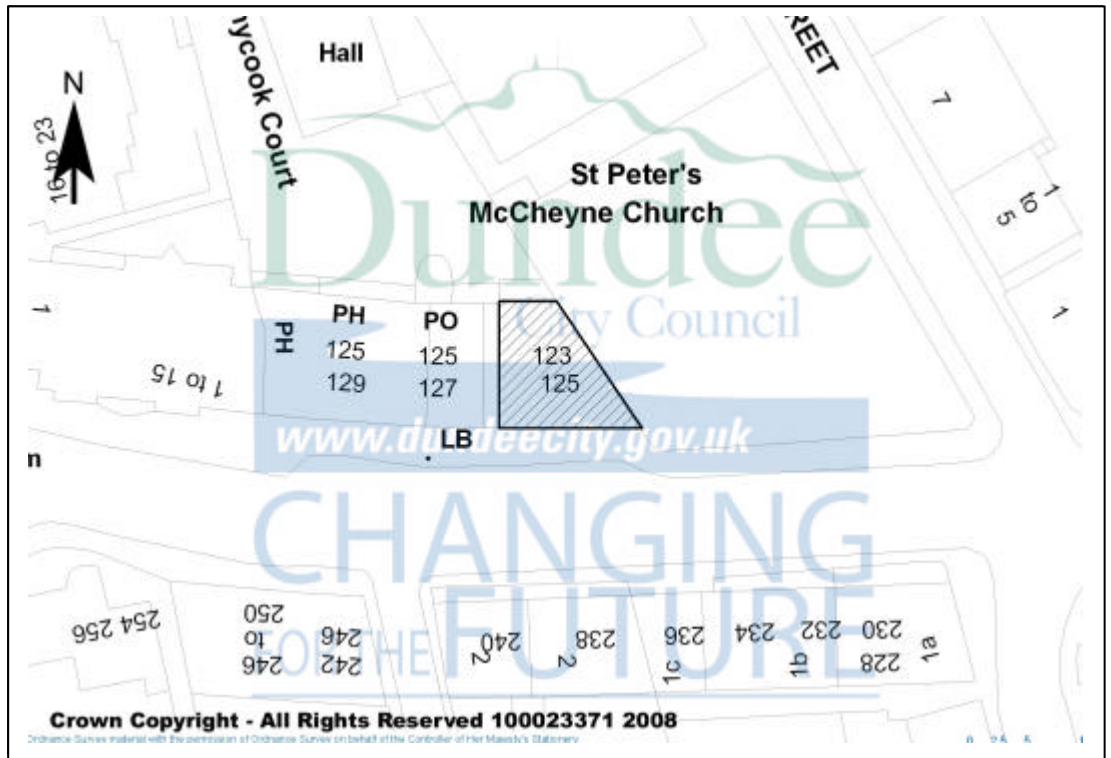


KEY INFORMATION

Ward West End

Proposal

Extension to opening hours until 10.00pm

Address123 Perth Road
Dundee
DD1 4JD**Applicant**Cafe Sicilia
123 Perth Road
Dundee
DD1 4JD**Agent**Paul Doig
7 The Esplanade
Broughty Ferry
Dundee
DD5 2EL**Registered** 30 Sep 2008**Case Officer** B Knox

Proposed Extension to Cafe Opening Hours in Perth Road

An extension to opening hours until 10.00pm is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

The application is contrary to Policy 53 of the Dundee Local Plan Review 2005. There are material considerations which indicate that the application merits support and the view of the objector is not supported. Accordingly, the application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission for the Change of Use of the property from a laundrette to a coffee shop was granted on 18 December 2007. Condition 4 of the permission states that "The hours of opening of the coffee shop shall be restricted to between 7.00am to 7.00pm only." The applicant is now seeking to amend this condition.
- The applicant is requesting that the opening hours of the coffee shop be extended to 10.00pm an additional three hours over the existing permission.
- This application has been advertised in the Dundee Evening Telegraph as a departure from the provisions of Policy 53: Licensed and Hot Food Premises outwith the city centre of the Dundee Local Plan Review 2005.
- One letter of objection has been received which raises concerns regarding noise.

DESCRIPTION OF PROPOSAL

Planning permission for the Change of Use of the property from a laundrette to a coffee shop was granted on 18 December 2007. Condition 4 of the permission states that "The hours of opening of the coffee shop shall be restricted to between 7.00am to 7.00pm only." The applicant is now seeking to amend this condition.

The applicant is requesting that the opening hours of the coffee shop be extended to 10.00pm, an additional three hours over the existing permission.

SITE DESCRIPTION

The application site is located on Perth Road in a small parade of shops, consisting of a Post Office and Public House at ground floor level. The property occupies the ground floor of a tenement block with residential properties occupying the upper floors which are not within the control of the applicant. The unit has a small window to the west of the frontage and a larger window to the east of the frontage, incorporating a door.

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 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:

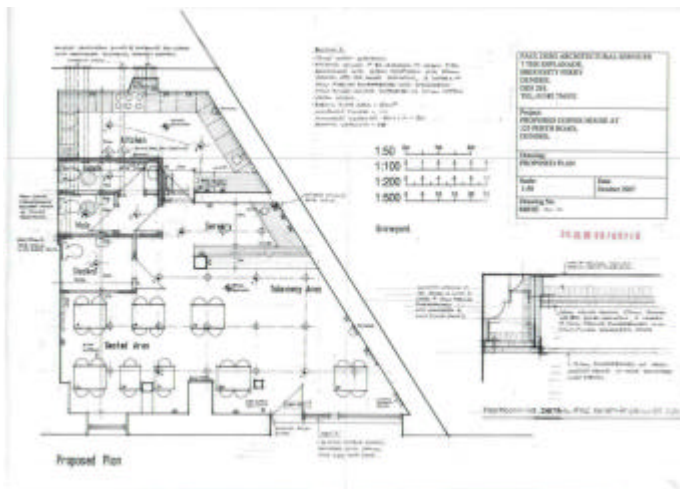
- a a within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace (excluding cellar space) and;
- b b within 45 metres if the 150 square metre figure is exceeded.

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.

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

A planning application for the installation of roller shutters was refused in August 2002 (02/00354/FUL) refers.

A planning application for the change of use of a laundrette to the present coffee house was discussed at the Development Quality Committee on 17 December 2007 and approved on 18 December 2008 (07/00934/COU).

There is also a current application for the installation of illuminated signage to the property under the terms of a separate application for Advertisement Consent.

PUBLIC PARTICIPATION

This application has been advertised in the Dundee Evening Telegraph as a departure from the provisions of Policy 53: Licensed and Hot Food Premises outwith the city centre of the Dundee Local Plan Review 2005. The applicant has also carried out the required neighbour notification procedures.

One letter of objection has been received which raised the following considerations:

The proposed extension of opening hours will create additional noise pollution at night.

Other issues relating to the water supply of the objectors home being effected and that there is often trade waste left in the objectors bin from the café are not considered material planning considerations and as such cannot be taken into consideration.

Members will have already had access to these letters and it is intended to comment on the issues raised in the Observations section of this report below.

CONSULTATIONS

No adverse comments have been received from any of the consultees.

OBSERVATIONS

Statutory Requirements

This planning application is seeking a variation to Condition 4 of the previously approved planning application 07/00934/COU under Section 42 of the Town and Country Planning (Scotland) Act 1997. As such, it is only this condition that is subject to consideration in this report.

The Development Plan

The proposal to extend the opening hours beyond 7.00pm is contrary to Policy 53 of the Dundee Local Plan Review 2005 which states that opening hours of cafes of this nature in District Centres should be limited 7.00am to 7.00pm. This is because the hot food premises may raise amenity issues. However, Policy 53 states that in the District Centres, standards may be relaxed as the impact of such premises will be less severe and also that they are an important use within these areas if they are to fulfil their function as District Centres.

Other Material Considerations

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

Planning permission for the Change of Use of the property from a laundrette to a coffee shop was granted on 18th December 2007. Condition 4 of the permission states that "The hours of opening of the coffee shop shall be restricted to between 7.00am to 7.00pm only." The applicant is now seeking to amend this condition.

Policy 53 of the Dundee Local Plan Review states that premises such as this within District Centres should be limited to the hours of operation between 7.00am and 7.00pm in order to protect the amenity of nearby residents.

The applicant is requesting that the opening hours of the coffee shop be extended to 10.00pm, an additional three hours over the existing permission. It is therefore appropriate to consider whether an additional three hours will have a significant detrimental effect upon the residents of nearby properties.

The property is located in the District Centre on Perth Road. It is therefore an area of mixed use which includes public houses and restaurants in close

proximity to the application property. It is considered that these types of uses are likely to generate greater noise levels than any noise associated with a coffee shop.

In addition to that, the property is located on a main road and bus route where ambient noise levels are higher than might be expected to be found in other areas not located within a busy District Centre such as this. It is therefore considered that it is unlikely that an additional three hours of opening would have a significant detrimental effect upon nearby residential occupiers.

Furthermore, the extension of hours from 7.00pm until 10.00pm will still ensure that the coffee shop operates in the evening hours only and will not be operating into the late hours.

Views of the objector:

The letter of objection received raises concerns that the proposed extension of opening hours will create additional noise pollution at night. This matter has been discussed and discharged above. The views of the objector are not supported in this instance.

It is concluded from the foregoing that sufficient weight can be accorded to any of the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

There are no plans to alter the external appearance of the building. Therefore, there are no design issues to be considered in these circumstances.

CONCLUSION

It is concluded from the foregoing that although the proposal is contrary to Policy 53 of the Dundee Local Plan Review 2005, there are material considerations which merit the support of this application.

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.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.