

DUNDEE CITY COUNCIL

LOCAL REVIEW BODY

LOCAL REVIEW DECISION NOTICE

Review Reference:	LR 15/2020		
Review Address:	Land South of Riverside Avenue, Dundee		
Review Requested by:	Calum Morris, GVD Group as Agent for Eat & Drive Dundee Ltd		
Application Ref 20/00031/FULL: received on 10 February 2020 and refused on 21 July 2020.			
Proposed Development:	Development of 2x Class 3 Units, comprising 1x Fast Food Drive Thru Unit and 1x Coffee Drive Thru Unit, with Associated Landscaping and Car Parking, including e-charging spaces.		
Application Drawings:	1	Location Plan	17 January 2020
	2	Transport Assessment	17 January 2020
	3	Report: Travel Plan	17 January 2020
	4	Tree Survey Report	17 January 2020
	5	Proposed Elevations (Drive Thru 2)	7 February 2020
	5A	Proposed Elevations (Drive Thru 2)	10 February 2020
	6	Existing Site Plan	7 February 2020
	7A	Proposed Site Plan	10 February 2020
	8	Statement	7 February 2020
	9A	Proposed Elevations (Drive Thru 1)	10 February 2020
Method of Review Determination:	Review Documents		
Dates of Local Review Body Meetings	19 January 2021		
Date of Review Decision	19 January 2021		

DECISION

Dundee City Council's Local Review Body reversed the determination of the appointed officer, approved the application under review and granted planning permission subject to conditions.

REASONING

1. Background

The Review was determined in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 in accordance with the Development Plan and relevant material considerations.

The determining issues in this Review were whether the proposal:

- a) Fulfilled the requirements of Policies 1, 3, 6, 27, 35, 36, 37, 41, 44, 48 and 54 of the Dundee Local Development Plan 2019.
- b) Was acceptable or not in terms of other material considerations.

2. The Development Plan

- 2.1 The Development Plan comprises the approved TAYplan Strategic Development Plan 2017, the adopted Dundee Local Development Plan 2019 and Supplementary Guidance.

TAYplan Strategic Development Plan 2017

- 2.2 The Local Review Body considered that the Strategic Development Plan was not relevant for consideration in the determination of this Review.

Dundee Local Development Plan 2019

- 2.3 The Local Review Body considered that the relevant provisions of the Local Development Plan were policies 1, 3, 6, 27, 35, 36, 37, 41, 44, 48 and 54 of the Dundee Local Development Plan 2019. The Local Review Body also considered Policy 21 but determined that this policy was not relevant to their determination of the proposal.

Policy 1 (High Quality Design and Placemaking)

- 2.4 The Local Review Body acknowledged that the buildings were of a standard design typical for this type of use but had no particular architectural merit. It was noted that the buildings and car park were partially screened from the road and the natural setting of the site provided by the trees added significantly to the acceptability of development in this location.
- 2.5 The Local Review Body considered that the proposed development could comply with Policy 1 subject to conditions to preserve and enhance the existing natural screening.

Policy 3 (Principal Economic Development Areas)

- 2.6 The Local Review Body acknowledged that the proposal is for a class 3 use which is not permissible under the terms of this policy
- 2.7 The Local Review Body considered that the proposed development did not comply with Policy 3.

Policy 6 (Ancillary Services within Economic Development Areas)

- 2.8 The Local Review Body acknowledged that whilst some patronage could be expected from the local economic development area and users of the Airport, the development would be expected to draw customers from passing traffic travelling from a wider area and therefore could not be considered ancillary.
- 2.9 The Local Review Body considered that the proposed development did not comply with Policy 6.

Policy 21 (Town Centres First Principle)

- 2.10 The Local Review Body determined that for this specific development proposal Policy 21 was not relevant.

Policy 27 (Public Houses, Restaurants and Hot Food Takeaways)

- 2.11 The Local Review Body concluded that the proposed development met the space and distance requirements of this policy but had concerns related to the potential for odour from cooking processes at the site.

- 2.12 The Local Review Body concluded that the proposed development could comply with Policy 27 subject to conditions ensuring adequate ventilation controls.

Policy 35 (Trees and Urban Woodland)

- 2.13 The Local Review Body raised concerns regarding the protection of trees which contribute significantly to the amenity of the local area and this major travel route in to the centre of Dundee. They were however content that those concerns could be addressed by means of conditions.
- 2.14 The Local Review Body concluded that the proposal complied with Policy 35 subject to conditions to ensure the protection of the trees during construction and replacement planting for any trees lost.

Policy 36 (Flood Risk Management)

- 2.15 The Local Review Body accepted that the proposal was in an area where a flood risk was present but that the probability was limited and could be controlled by a condition applied to a consent.
- 2.16 The Local Review Body considered that the proposed development could comply with Policy 36 subject to conditions.

Policy 37 (Sustainable Drainage Systems)

- 2.17 The Local Review Body accepted that the proposal offered limited detail on drainage systems but that this could be addressed by a condition applied to a consent.
- 2.18 The Local Review Body considered that the proposed development could comply with Policy 37 subject to conditions.

Policy 41 (Land Contamination)

- 2.19 The Local Review Body concluded that as the proposal is located on reclaimed land there is potential for contamination, possibly in the form of ground gas, to be present and a remediation strategy would be required to address this risk.
- 2.20 The Local Review Body considered that the proposed development complied with Policy 41 subject to conditions.

Policy 44 (Waste Management Requirements for Development)

- 2.21 The Local Review Body noted that there were designated waste storage areas associated with the development. It was a concern that litter or food waste from the development would have potential to attract birds or be blown onto the adjacent airport land and thereby cause a hazard to aircraft operations. The need for bird-proof and fully enclosed waste management was therefore considered essential.
- 2.22 The Local Review Body considered that the proposed development complied with Policy 44 subject to conditions.

Policy 48 (Low and Zero Carbon Technology in New Development)

- 2.23 The Local Review Body concluded that insufficient detail had been provided to satisfy the criteria of the policy however this could be dealt with by conditions applied to a consent.
- 2.24 The Local Review Body considered that the proposed development complied with Policy 48 subject to conditions.

Policy 54 (Safe and Sustainable Transport)

- 2.25 The Local Review Body noted that the proposal was more than 400metres away from public transport.
- 2.26 Pedestrian access to the site was limited and it was noted that delivery vehicles appeared to have to make reversing manoeuvres over the public car park area which raised a potential concern for pedestrian safety.
- 2.27 It was recognised that the site access road is shared with a distribution depot with traffic management issues and there was the potential for this development to contribute to further congestion on that access road as well as at the existing roundabout on Riverside Avenue.
- 2.28 It was also noted that whilst a cycle route does exist to the north of the site, the proposal still required cyclists to cross the access road at an uncontrolled crossing point. The provision of cycle parking within the site was considered inadequate for the development
- 2.29 The Local Review Body concluded that the proposal did not comply with Policy 54.

Development Plan Conclusion

- 2.30 The Local Review Body considered that the proposal did not comply with the provisions of the development plan.

3. Material Considerations

- 3.1 In identifying material considerations the Local Review Body made reference to the consultations received, the applicant's notice of review and supporting statement, Scottish Planning Policy, representations received, the site planning history and consultations received.
- 3.2 The Local Review Body noted the climate emergency and considered that the references made to it in the representations received weighed against a development that was largely dependent upon car use although it was also acknowledged that these may include a significant proportion of journeys which would have used the adjacent distributor road anyway. It was accepted that the development would have significant economic benefits through the provision of employment in the city at a time when jobs were being lost due to the pandemic and that this was a factor which weighed heavily in favour of approving the proposal.

4. Conclusions

Having taken into account the provisions of the Development Plan, all material considerations, and all matters raised at the Review, the Local Review Body considered that there were material considerations of sufficient weight to justify approval of the proposal contrary to the provisions of the development plan and therefore reversed the Appointed Officer's decision and approved planning permission reference 20/00031/FULL subject to fifteen conditions:

Conditions:

1- Tree Protection

Prior to the commencement of any works on site, the developer shall submit, details and specifications of the protective measures necessary to safeguard the trees on and adjacent to the site during development operations, as per BS:5837. This Planning Authority shall be formally notified in writing of the completion of such measures and

no work on site shall commence until the Planning Authority has confirmed in writing that the measures as implemented are acceptable. The protective measures shall be retained in a sound and upright condition throughout the development operations and no building materials, soil or machinery shall be stored in or adjacent to the protected area, including the operation of machinery.

Reason: To protect those trees which are of significant amenity value to the area and which would ensure a satisfactory standard of appearance of the development.

2 – Tree Planting

Prior to the occupation of the development, the developer shall submit a landscape and maintenance plan, including specifications for the replacement planting for any trees removed during construction. The Planning Authority shall be formally notified in writing of the completion of replacement planting and no occupation of the buildings shall commence until the Planning Authority has confirmed in writing that the planting as implemented are acceptable.

Reason: To replace those trees which are of significant amenity value to the area and which ensure a satisfactory standard of appearance of the development.

3. Ventilation

Prior to the commencement of any works on site, details of the proposed extraction and ventilation system shall be submitted to the Council for written approval. Thereafter, the approved extraction and ventilation system shall be installed prior to the kitchen becoming operational and maintained in accordance with details approved by this Condition. Thereafter, the kitchen extraction and ventilation system shall operate whenever the equipment being serviced by the system is in operation.

Reason: In the interests of local amenity.

4. Sustainability

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 48 of the adopted Dundee Local Development Plan (2019) 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.

5. Flood Risk

Prior to the commencement of any works on site, the developer shall undertake appropriate site investigations and submit a Flood Risk assessment to the Planning Authority for approval in order to ensure that the risk of flooding is mitigated and that all surface water flows are contained within the site boundary

Reason: In the interests of preventing flooding to the site and adjacent areas.

6. Surface Water Drainage

The hard surface within the site 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. Drainage

The applicant must provide a disposal route for road surface water to the satisfaction of Dundee City Council which discharges to a system publicly maintained/maintainable by the relevant authority

Reason: To ensure an appropriate and publicly maintainable system is provided

8. Contamination

Prior to the commencement of any works on site, the developer shall submit a land contamination remediation strategy to the Planning Authority for approval in order to address contamination matters within the site. The Planning Authority shall be formally notified in writing of the completion of such measures contained in the strategy and no work on site shall commence until the Planning Authority has confirmed in writing that the measures as implemented are acceptable

Reason: In the interests of public safety and environmental protection.

9. Waste Management

Prior to the occupation of the buildings in the development, the developer shall submit details of waste handling and storage to the Planning Authority for approval. This should include measures to enclose any waste storage and bins to eliminate any risk of waste items being blown from the site or becoming an attractor to birds. The Planning Authority shall be formally notified in writing of the completion of such measures and no occupation of the buildings shall commence until the Planning Authority has confirmed in writing that the measures as implemented are acceptable.

Reason: In the interests of airport safety and local amenity.

10. Transport Statement

An updated transport statement shall be submitted to Dundee City Council covering travel by all modes of travel and road improvements. The agreed findings of the transport statement must be implemented prior to any works on site

Reason: In the interests of vehicle and pedestrian safety and promoting sustainable transport.

11. Travel Plan

A full travel plan must be in place and agreed with the Local Authority within one year of the development opening

Reason: In the interests of promoting sustainable transport

12. Electric Car Charging

Electric car charging points shall be provided at a location and number to be approved prior to the opening of the development

Reason: In the interests of sustainable travel measures

13. Cycle Parking

Prior to any works on site, details of secure and covered cycle parking shall be agreed with Dundee City Council.

Reason: In the interests of sustainable travel measures

14. Delivery/Servicing Times

Deliveries and servicing of the development hereby approved, including loading, unloading or lay-up, shall only take place outwith public opening hours

Reason: In the interests of road safety.

15. Street Lighting

Prior to any works on site details of any works to or alteration of the Street Lighting system must be provided and agreed. Thereafter, the approved works must be formed and constructed to Dundee City Council standards and specifications.

Reason: In the interests of vehicle and pedestrian safety

Signed *V Thomson*.....

Date 8th February 2021.....

Clerk to the Dundee City Council Planning Local Review Body