# **AGENDA ITEM NO 4**

#### **REPORT NO 400/21**

#### ANGUS COUNCIL

# DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 21 DECEMBER 2021

## 74 MARKETGATE, ARBROATH

# REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

#### ABSTRACT:

The Committee is asked to consider an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission for change of use to hot food takeaway and erection of external extraction equipment (retrospective), application No 20/0772/FULL, at 74 Marketgate, Arbroath.

### 1. **RECOMMENDATIONS**

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (Appendix 1); and
- (ii) review the case submitted by the Applicant (Appendix 2).

# 2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

#### 3. CURRENT POSITION

The Development Management Review Committee is required to determine if they have sufficient information to determine the Review without further procedure. If members do not determine the review without further procedure, the Review Committee must determine the manner in which the review is to be conducted. The procedures available in terms of the regulations are: written submissions, hearing sessions or inspection of the land to which the review relates.

### 4. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from the recommendations in the Report.

## 5. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment is not required.

#### 6. CONSULTATION

In accordance with Standing Order 48(4), this Report falls within an approved category that has been confirmed as exempt from the consultation process.

**NOTE:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

Report Author: Sarah Forsyth E-Mail: LEGDEM@angus.gov.uk List of Appendices: Appendix 1 – Submission by Planning Authority Appendix 2 – Submission by Applicant

# ANGUS COUNCIL'S SUMISSION ON GROUNDS OF REFUSAL

# APPLICATION NUMBER – 20/00772/FULL

# APPLICANT- PIZZERIA KAMILO

# PROPOSAL & ADDRESS – CHANGE OF USE TO HOT FOOD TAKEAWAY AND ERECTION OF EXTERNAL EXTRACTION EQUIPMENT (RETROSPECTIVE) AT 74 MARKETGATE ARBROATH

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# Angus Council

Application Number:	20/00772/FULL
Description of Development:	Change of use to hot food takeaway and erection of external extraction equipment (retrospective)
Site Address:	74 Marketgate Arbroath DD11 1AT
Grid Ref:	364235 : 740815
Applicant Name:	Pizzeria Kamilo

# Report of Handling

# Proposal

Planning permission is sought for the change of use to a hot food takeaway at 74 Marketgate, Arbroath, including alterations to the building to accommodate the new use. Internally, a front shop area with sales counter would be formed and a pizza oven and stainless-steel worktop would be fitted in the back shop. Externally, a 5.9m height, 150mm diameter, stainless steel flue would be erected at the rear (west) elevation of the building.

The proposal is retrospective in that works to accommodate the change of use to a hot food takeaway, including the erection of the flue at the rear elevation, have already been undertaken. It is understood that the takeaway was operating from the premises but was instructed to cease trading in the absence of a valid planning permission for that use.

The application has not been subject of variation.

### Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier and a site notice was posted.

### **Planning History**

Two planning enforcement cases have been reported in relation to the property, both indicating that a hot food takeaway was operating from the premises. On both occasions the site was visited and it was identified that the premises were closed and no longer operating as a hot food takeaway.

### **Applicant's Case**

The Supporting Statement provides the specification of the pizza oven and extraction flue. It indicates the hours of operation would be Monday-Thursday 11am-10pm, Friday/Saturday 11am-11pm, and Sunday 12noon-10pm. There would be 2 members of staff and a delivery driver. Only pizza would be made at the premises. The neighbouring properties are not in the applicant's ownership.

The Odour Risk Assessment indicates the dispersion rate would be good, the proximity of receptors is close, the kitchen size is small, and the cooking type (odour and grease load) is low, resulting in a low level of odour control being required.

A noise impact assessment has been undertaken in relation to a change of use to provide a takeaway with an associated kitchen extraction system. The extraction system ducts and discharges at the rear of the property. The assessment includes consideration of noise from the extraction flue and internal sound transmission through the separating floor. The nearest or most-affected Noise Sensitive Receptor (NSR) was identified as the residential flat directly above the premises at first and second floor level. An assessment of the kitchen extraction system indicated noise levels at the closest second floor window to be within NR35, achieving the criteria set by Angus Council. Calculations of internal sound transmission indicated that noise levels in first-floor habitable rooms to be within NR25, achieving the criteria set by Angus Council. The assessment indicates that calculations of internal sound transmission is based on information relating to the existing floor and ceiling construction provided by the applicant.

### Consultations

**Community Council** - There was no response from this consultee.

Roads (Traffic) - Offered no objection.

Scottish Water - Offered no objection.

**Environmental Health** – has objected to the proposal indicating that it has not been demonstrated that the hot food takeaway could operate without significant odour and noise impacts on neighbouring households.

Aberdeenshire Council Archaeology Service - Indicated that no archaeological mitigation is required.

### Representations

3 letters of representation were received objecting to the proposal.

The main points of concern were as follows:

Impacts on amenity from noise, congregation of people, anti-social behaviour, and littering; The use is incompatible with residential uses in the area; Blocking of footpath/fire escape for neighbouring flats; Safety impacts from use of gas/gas bottles.

These matters are addressed in the Assessment Section below.

The following matters are addressed directly as follows:-

The owner of neighbouring property which forms part of the application site (the flue on the rear elevation would run across it) was not notified by the applicant - This matter was brought to the attention of the applicant and a corrected Land Ownership Certificate was provided indicating all other land owners were notified in February 2021. Notwithstanding that, the affected party has made comment on the application and therefore has knowledge of the proposal.

### **Development Plan Policies**

### Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities Policy DS3 : Design Quality and Placemaking Policy DS4 : Amenity Policy TC17 : Network of Centres Policy TC19 : Retail and Town Centre Uses Policy PV8 : Built and Cultural Heritage Policy PV15 : Drainage Infrastructure

### TAYplan Strategic Development Plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at Appendix 1 to this report.

#### Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in determining this application.

Policy DS1 states that proposals for sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Policy TC19 deals with retail and town centre uses and indicates that proposals for retail and other town centre uses under 1000sqm gross floorspace on the edge of or outside of defined town centres may be required to submit relevant assessments where it is considered that the proposal may have a significant impact on the vibrancy, vitality and viability of any of the town centres in Angus. The proposed use is located outside of but close to the defined town centre area. Having regard to the scale of the operation, it is unlikely to be a use which would result in a significant impact on the vibrancy, vitality, and viability of the town centre.

Policy DS4 indicates that development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the amenity or environment of existing or future occupiers of adjoining or nearby property. Advice Note 2/2018 provides guidance in relation to the assessment of applications for hot food takeaways. The advice note recognises that they can give rise to residential amenity issues if sited in inappropriate locations and provides policy guidance on locations that may be appropriate. It identifies potential issues relating to cooking smells, noise, litter, and traffic/parking.

The advice note indicates that the preferred location for hot food takeaways is within town centres but outwith core retail areas, or in mixed-use areas where there are already a significant number of properties of a similar/related use and subject to compliance with other relevant criteria. It indicates that hot food takeaways will not normally be considered to be acceptable where they occupy premises directly abutting residential properties unless those properties are in the control of the applicant <u>or</u> it is demonstrated that impacts from noise and odour are not significant.

The proposal relates to a vacant shop outside but close to the defined Arbroath town centre. The property is in a location where the character of ground floor premises is transitioning from being predominantly commercial at ground floor level to predominantly residential at ground floor level. There are other similar uses to the north, but the closest hot food takeaway at 5 Brothock Bridge is a single storey property with no residential property directly above. In terms of the locational approach in the advice note, while it is an area containing a mix of uses, this proposal would extend the area affected by night-time economy related uses closer to a predominantly residential area and there is residential property not in the control of the applicant directly above the proposed hot food takeaway. In these circumstances, the advice note cautions against such locations unless it is demonstrated that impacts from noise and odour would not be significant.

The noise information submitted in support of the application suggests that noise levels associated with both extraction equipment and noise generated from within the premises would be within acceptable levels. The odour information indicates that taking account of the dispersion rate, the proximity of receptors, kitchen size, and the cooking type, a low level of odour control is required. The information does not include a specification for the odour extraction system, which has already been installed to serve the hot food takeaway.

The environmental health service has considered the information submitted, has visited the site, and has identified issues with the odour extraction system and the findings of the noise assessment. Environmental health has indicated that the information submitted, combined with examination of the extraction equipment installed, does not demonstrate an adequate level of odour abatement would be in place to mitigate impact from the development. The environmental health service has advised that the applicant's risk assessment for odour contains inaccuracies in respect of the dispersion of odour which would result in a requirement for a high level of odour control to serve the development, which the proposal does not include.

Environmental health has also indicated concern that the assumptions contained within the noise assessment are unreliable in respect of existing ceiling construction, which could result in a greater noise impact on neighbouring property than predicted in the assessment. That conclusion is consistent with the experience of neighbouring householders during the unauthorised operation of the hot food takeaway as reported to environmental health officers. Based on the above, environmental health has objected to the proposal.

There is residential property above and adjacent to the site and objections have been submitted from neighbouring property raising issues relating to both noise and odour. Having regard to the advice provided by environmental health, it has not been adequately demonstrated that impacts from noise and odour directly associated with the development would not be significant and detrimental to occupants of neighbouring property. In addition, the proposed use would be significantly closer to and effectively on the edge of a predominantly residential area. It is close to a public house and a hot food takeaway may result in congregation of patrons in the vicinity. The nature of the area and the residential use of nearby ground and first floor property is such that there could be reasonable likelihood of significant amenity impacts from any such congregation and associated activity. The proposal is not consistent with the locational guidance provided in the council's advice note and the environmental health service has indicated that the proposal is likely to result in unacceptable noise and odour impacts on occupants of nearby property. For these reasons the proposal is contrary to policy DS4 and the council's advice note.

In terms of parking and road safety, there is short-stay on-street parking on Marketgate and a public car park between Marketgate and High Street nearby to the east. The roads service has offered no objection having regard road traffic and pedestrian safety matters.

In relation to litter, the advice note recognises that the dropping of litter by customers is outwith the control of the proprietor and is controlled by other regulatory regimes. Notwithstanding this, there are litter bins in the surrounding area. Advice Note 2/2018 indicates that planning conditions will not normally be used to restrict opening hours of hot food takeaways as these can be more appropriately addressed through the licensing system.

The external alterations to the building are minor, involving the installation of a metal extraction flue unit at a rear elevation of the building that is not readily overlooked from the public realm. The proposal is not considered to adversely impact on the character or appearance of the building or the conservation area.

No altered drainage or water supply arrangements would be required to accommodate the proposed change of use and existing refuse arrangements for the shop would be used for the introduction of a hot food takeaway use.

In relation to material considerations, it is relevant to note that representations have been submitted in relation to the proposal. In essence the representations suggest that this is not an appropriate location for a hot food takeaway by virtue of the adverse impact such use would have on the amenity of those that live in the area. The representations support the conclusion reached in this report.

It is also relevant to have regard to the potential economic benefits that could be associated with the use of the premises as a hot food takeaway, and the benefit of securing a new use for an existing property in the conservation area. However, there is no evidence to suggest that the economic benefits associated with a proposal of this nature could not be delivered from at a different location that is otherwise compatible with relevant policy and guidance. Similarly, there is no evidence to suggest that an alternative use that is compatible with policy and guidance could not be found for the property.

In conclusion, the site is located on the edge of a predominantly residential area and there is a flatted dwelling directly above. On this basis the proposal is not consistent with the locational guidance provided in the council's advice note on hot food takeaways as this type of use is likely to detract from the amenity of those that live in the area. In addition, information submitted in support of the application does not demonstrate that the operation of the proposed business would result in significant and unacceptable noise and odour impacts to the detriment of those that live in the area. The proposal is therefore contrary to Policy DS4 and the guidance contained within the council's advice note 2/2018. The letters of representation submitted in objection to the proposal support that conclusion. There are no material considerations that

justify the approval of planning permission.

# Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

# Decision

The application is refused.

# Reason(s) for Decision:

- 1. That the proposal does not comply with the locational guidance for the siting of hot food takeaways provided in Angus Council Advice Note 2/2018 and is likely to give rise to unacceptable adverse impacts on the amenity of those that live in the area contrary to Policy DS4 of the Angus Local Development Plan.
- 2. It has not been demonstrated that the proposed hot food takeaway could operate from the premises in a manner that would not give rise to unacceptable odour and noise impacts on the occupants of nearby residential property and as such the proposal is contrary to Policy DS4 of the Angus Local Development Plan, and Angus Council Advice Note 2/2018.

Case Officer: Ed Taylor Date: 28/09/2021

### **Appendix 1 - Development Plan Policies**

### Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous\* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land

or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

\*Sharing an edge or boundary, neighbouring or adjacent

#### Policy DS3 : Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

o Distinct in Character and Identity: Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.

o Safe and Pleasant: Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.

o Well Connected: Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.

o Adaptable: Where development is designed to support a mix of compatible uses and accommodate changing needs.

o Resource Efficient: Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

### Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;

• The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and

• Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Policy TC17 : Network of Centres

Angus Council will seek to protect and enhance the scale and function of the centres as set out in Table 2 below.

A town centre first policy is applied to uses including retail, commercial leisure, offices, community and cultural facilities that attract significant numbers of people. Support will be given to development proposals in town centres which are in keeping with the townscape and pattern of development and which conform with the character, scale and function of the town centres.

All development proposals within a Commercial Centre will have to satisfy criteria within Policy TC19 Retail and Town Centre Uses.

### Policy TC19 : Retail and Town Centre Uses

Proposals for retail and other town centre uses\* over 1000 m2 gross floorspace (including extensions) on the edge of or outside of defined town centres (including in out of town locations) will be required to submit relevant assessments (including retail/town centre impact and transport assessments) and demonstrate that the proposal:

has followed a sequential approach to site selection, giving priority to sites within the defined town centre before edge of centre, commercial centre or out of centre sites which are, or can be made accessible;
 does not individually or cumulatively undermine the vibrancy, vitality and viability of any of the town

centres identified in Table 2 in Angus;

o tackles deficiencies in existing provision, in qualitative or quantitative terms; and

o is compatible with surrounding land uses and there is no unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure.

Proposals for retail and other town centre uses8 under 1000 m2 gross floorspace (including extensions) on the edge of or outside of defined town centres may be required to submit relevant assessments (including retail / town centre impact, transport and sequential assessments) where it is considered that the proposal may have a significant impact on the vibrancy, vitality and viability of any of the town centres in Angus.

\*Town centre uses include commercial leisure, offices, community and cultural facilities.

### Policy PV8 : Built and Cultural Heritage

Angus Council will work with partner agencies and developers to protect and enhance areas designated for their built and cultural heritage value. Development proposals which are likely to affect protected sites, their setting or the integrity of their designation will be assessed within the context of the appropriate regulatory regime.

### National Sites

Development proposals which affect Scheduled Monuments, Listed Buildings and Inventory Gardens and Designed Landscapes will only be supported where:

• the proposed development will not adversely affect the integrity of the site or the reasons for which it was designated;

• any significant adverse effects on the site or its setting are significantly outweighed by social, environmental and/or economic benefits; and

• appropriate measures are provided to mitigate any identified adverse impacts.

Proposals for enabling development which is necessary to secure the preservation of a listed building may be acceptable where it can be clearly shown to be the only means of preventing its loss and securing its long term future. Any development should be the minimum necessary to achieve these aims. The resultant development should be designed and sited carefully in order to preserve or enhance the character and setting of the listed building.

### **Regional and Local Sites**

Development proposals which affect local historic environment sites as identified by Angus Council (such as Conservation Areas, sites of archaeological interest) will only be permitted where:

- supporting information commensurate with the site's status demonstrates that the integrity of the historic environment value of the site will not be compromised; or
- the economic and social benefits significantly outweigh the historic environment value of the site.

Angus Council will continue to review Conservation Area boundaries and will include Conservation Area Appraisals and further information on planning and the built and cultural heritage in a Planning Advice Note.

### Policy PV15 : Drainage Infrastructure

Development proposals within Development Boundaries will be required to connect to the public sewer where available.

Where there is limited capacity at the treatment works Scottish Water will provide additional wastewater capacity to accommodate development if the Developer can meet the 5 Criteria<sup>\*</sup>. Scottish Water will instigate a growth project upon receipt of the 5 Criteria and will work with the developer, SEPA and Angus Council to identify solutions for the development to proceed.

Outwith areas served by public sewers or where there is no viable connection for economic or technical reasons private provision of waste water treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. A private drainage system will only be considered as a means towards achieving connection to the public sewer system, and when it forms part of a specific development proposal which meets the necessary criteria to trigger a Scottish Water growth project.

All new development (except single dwelling and developments that discharge directly to coastal waters) will be required to provide Sustainable Drainage Systems (SUDs) to accommodate surface water drainage and long term maintenance must be agreed with the local authority. SUDs schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process.

Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

\*Enabling Development and our 5 Criteria (http://scotland.gov.uk/Resource/0040/00409361.pdf)

AC2

Wednesday, 24 February 2021

Local Planner Planning Service Angus Council Forfar DD8 1AN



Development Operations The Bridge Buchanan Gate Business Park Cumbernauld Road Stepps Glasgow G33 6FB

Development Operations Freephone Number - 0800 3890379 E-Mail - <u>DevelopmentOperations@scottishwater.co.uk</u> www.scottishwater.co.uk

Dear Sir/Madam

SITE: 74 Marketgate, Arbroath, DD11 1AT PLANNING REF: 20/00772/FULL OUR REF: DSCAS-0033570-XPP PROPOSAL: Change of use to hot food takeaway and erection of external extraction equipment (retrospective)

# Please quote our reference in all future correspondence

# Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

# Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

There is currently sufficient capacity in the LINTRATHEN Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

# Waste Water Capacity Assessment

There is currently sufficient capacity for a foul only connection in the HATTON PFI Waste Water Treatment works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

# **Please Note**

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

# **Surface Water**

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

# **General notes:**

- Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - Site Investigation Services (UK) Ltd
  - Tel: 0333 123 1223
  - Email: sw@sisplan.co.uk
  - www.sisplan.co.uk
- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- Please find information on how to submit application to Scottish Water at <u>our</u> <u>Customer Portal</u>.

# Next Steps:

# All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via <u>our Customer Portal</u> prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

# Non Domestic/Commercial Property:

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at <a href="http://www.scotlandontap.gov.uk">www.scotlandontap.gov.uk</a>

# Trade Effluent Discharge from Non Dom Property:

- Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.
- If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?".
   Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found <u>here</u>.
- Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the

development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at <u>planningconsultations@scottishwater.co.uk</u>.

Yours sincerely,

Planning Application Team Development Operations Analyst <u>developmentoperations@scottishwater.co.uk</u>

# Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

# ANGUS COUNCIL

# PLACE PLANNING

**CONSULTATION SHEET** 

ROADS



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# AC4

From:PetrieM Sent:Mon, 15 Mar 2021 14:39:26 +0000 To:MacKenzieF Cc:ThomsonSD Subject:RE: Consultation for 74 Marketgate Arbroath - 20/00772/FULL Attachments:odour assessment amended.pdf, odour risk assessment.doc

Hi Fraser

I have now had a chance to consider this application and my thoughts on this are below.

This application for a takeaway is in retrospect and although I am aware of no complaints arising from its use, there is still the potential for loss of residential amenity due to cooking odours and noise. At the pre-app stage, I raised concerns that the existing flue terminated directly below a residential window, this has since been extended to above ridge level, which combined with the proposed use as a pizza takeaway, does lead to a relatively low risk of odour becoming an issue, however the applicant should still complete the attached risk assessment and supply the information required in the attached document.

Odour is one issue potentially arising from the use of this premises as a takeaway, noise is another and in line with Angus Council planning policy, a noise impact assessment (NIA) should be conducted in support of this application as the property directly above is not under the same ownership or control as this premises. The NIA should be conducted by a suitably qualified consultant and I would recommend prior to this being undertaken, contact be made with Environmental Health to discuss the methodology.

If you have any further queries please do not hesitate to contact me.

Kind regard

Martin

From: FalconerAE <FalconerAE@angus.gov.uk> On Behalf Of ACCESSENVArbroath
Sent: 23 February 2021 08:31
To: PetrieM <PetrieM@angus.gov.uk>
Subject: FW: Consultation for 74 Marketgate Arbroath - 20/00772/FULL

SRU 489224

Amy Falconer | Business Support Assistant | Angus Council | 01241 465 354 | FalconerAE@angus.gov.uk | www.angus.gov.uk

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From: CaneyV <<u>CaneyV@angus.gov.uk</u>> Sent: 23 February 2021 08:04 To: ACCESSENVArbroath <<u>accessenvarbroath@angus.gov.uk</u>> Subject: Consultation for 74 Marketgate Arbroath - 20/00772/FULL

Please see attached consultation request.

In accordance with Section 25 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, the planning authority is required to give 14 days notice of an application to statutory consultees. In accordance with those regulations, we will not determine the application until after the expiration of that period.

If no consultation response has been received within 14 days, we will assume you have no objection or other comments to make on the proposal.

Regards,

Veronica.

Veronica Caney Clerical Officer Angus House : Planning Service, Orchardbank Business Park, Forfar, DD8 1AN

Tel: 01307 491847.

# COVID-19

# For the latest information on how our service has been affected <u>CLICK HERE</u>





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# AC4

From:Martin Petrie Sent:22 Jun 2021 11:28:09 +0100 To:Fraser MacKenzie Cc:Steven D Thomson Subject:RE: Peak Acoustics Confirmation Documents - 06052110

Hi Fraser

I have now had a chance to look over this document and the previously sent odour risk assessment. I have some minor issues with the noise assessment but am reasonably content that this development can meet the standard plant noise conditions, particularly as the proposed opening times are until 23.00 and not later. Patron noise was also assessed and I am reasonably content this should not be an issue.

The applicant also attached an odour risk assessment which deemed the odour risk to be low-medium, due mainly to the small size of the outlet and the fact that pizza is a relatively low odour food to cook. The EMAQ guidance document states that low to medium level control may include fine filtration or ESP followed by carbon filtration with a 0.1 second residence time.

The applicant has not given any information on filtration and states on their email dated 29/3/2021 that Grease and Pre filters are N/A. This application is in retrospect, with the ventilation system already installed, it would be unusual not to have any kind of filtration from the kitchen extract, therefore I am looking for some confirmation of this. The applicant also didn't supply details on the fan and extract rate. I appreciate that as this is in retrospect, some of this information may not be readily to hand but it would aid me in my assessment.

If you have any further queries, please do not hesitate to contact me.

Kind regards

Martin

From: Fraser MacKenzie <MacKenzieF@angus.gov.uk>
Sent: 10 June 2021 10:02
To: Martin Petrie <PetrieM@angus.gov.uk>
Subject: FW: Peak Acoustics Confirmation Documents - 06052110

Good Morning Martin,

Please find attached NIA for the hot food takeaway proposed at 74 Marketgate.

Kind Regards,

Fraser MacKenzie I Planning Officer (Development Standards) I Angus Council I 01307 492198 I <u>mackenzief@angus.gov.uk</u> I <u>www.angus.gov.uk</u>

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COVID-19

For the latest information on how our service has been affected CLICK HERE

From: Molly Bisset <<u>molly@acousticsurveys.co.uk</u>>
Sent: 10 June 2021 09:59
To: Brian Toner
To: Brian Toner
Cc: Kyle Donald <<u>kyle@acousticsurveys.co.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

Hi Brian and Fraser,

Please find attached your noise assessment report regarding 74 Marketgate, Arbroath.

If you have any questions regarding your report, please contact your project consultant, Kyle Donald, kyle@acousticsurveys.co.uk

**Kind Regards** 

### **Molly-Sue Bisset**

**Office Manager** 

### Peak Acoustics Ltd

Switchboard: 0330 043 1764 email: <u>molly@acousticsurveys.co.uk</u> Website: <u>http://www.acousticsurveys.co.uk/</u>

Support our business by liking our facebook page! <u>https://www.facebook.com/PeakAcoustics/</u>

#### Peak Acoustics are a UKAS Accredited testing laboratory no. 8777

Peak Acoustics Ltd is registered in England at Fernbank House, Springwood Way, Macclesfield, Cheshire, SK10 2XA, UK Registered number: 8351088

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Before printing think about your responsibility and commitment to the environment!

From: Molly Bisset Sent: 10 June 2021 09:44 To: Brian Toner > Subject: RE: Peak Acoustics Confirmation Documents - 06052110

Hi Brian,

Thank you for the payment, please find attached your payment receipt.

If you have any questions, please do not hesitate to contact me.

From:	Martin Petrie
To:	Ed Taylor
Cc:	Steven D Thomson
Subject:	20/00772/FULL
Date:	16 August 2021 15:37:22

# Hi Ed

This hot food takeaway application has been ongoing for a while, as there are residential properties directly above, we were looking for some proof that it could operate without causing odour or noise issues at the flats above. To this end, the height of the ventilation flue was increased, however the applicant has not been able to provide further details regarding the configuration and make-up of the ventilation system. The applicant has also provided a noise impact assessment as required by planning advice note 2/2018.

This takeaway was operating without permission a few months ago, but I understand this has since ceased. Due to the fact we could not get a full description of the ventilation system, I made some queries locally regarding the period when the takeaway was operating. According to one neighbour, there was odour and general kitchen noise each time the takeaway was open. I understand that since then, the pizza oven has been moved directly under the ventilation system, which may improve the situation. The fact that one of the neighbours was experiencing these issues may imply that insulation between the properties is sub-standard. This may affect the findings of the noise impact assessment which assumed fairly standard construction in modelling the noise arising. I was reasonably happy with this approach at the time, however in light of the new information, it would be remiss of me not to raise this issue.

I also recently visited the premises to try and glean more information regarding the ventilation system, as the applicant was not able to provide this. Upon inspection, it seems that there are no filters other than simple baffle filters servicing the system. There appears to be no proper grease filtration, and probably no carbon filters to prevent odour issues. The lack of grease filtration is highlighted by the fact that there was some grease dripping down the ventilation fan, despite the kitchens relatively short time in use. This is an issue which would build up over time, increasing the chances of loss of amenity and potential statutory nuisance.

The shop itself is a relatively small premises, and whilst it has its own front access, it shares the back access through the close. I assume this access will be required for their bins, which could contribute to loss of residential amenity through noise.

Due to these issues, I am not in a position to support this application at this stage.

If you have any further queries please do not hesitate to contact me.

Kind regards Martin Sent: 21 July 2021 16:34To: Martin Petrie <PetrieM@angus.gov.uk>Subject: RE: Peak Acoustics Confirmation Documents - 06052110

Thank you for the update Martin and going in-depth with this one.

You may be aware that my last day with the council is Friday next week so this will likely be a case that needs to be handed over to another officer.

On the basis that there may be a mitigation solution for the noise/smell issue, I'll draft a report on that basis but it will obviously be dependent on the further response from Environmental Health. I'll make Ed aware of the background for this one.

Kind Regards,

Fraser MacKenzie I Planning Officer (Development Standards) I Angus Council I 01307 492198 I mackenzief@angus.gov.uk I www.angus.gov.uk Think green – please do not print this email. <u>COVID-19</u> For the latest information on how our service has been affected <u>CLICK HERE</u>

From: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>
Sent: 21 July 2021 16:30
To: Fraser MacKenzie <<u>MacKenzieF@angus.gov.uk</u>>; Steven D Thomson
<<u>ThomsonSD@angus.gov.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

Hi Fraser

I have spoken to the chap in the flat above, he states he has been getting some odour into his property but it doesn't bother him. Same with the kitchen noise and sometimes music, but no plant noise. He was happy enough for me to come and witness if need be.

Also just had Brian Toner, the owner on regarding the ventilation system, I think he is still struggling to ascertain the make-up. I put the odour and noise issues to him and he states they weren't working despite what the complainants said and they have, as of a week ago moved the oven under the canopy to better vent cooking odour. This may improve the odour situation, but maybe not enough, but I might need to go and witness the issue. Brian offered to meet on site, might be better if I witness without the operators knowing. It will be a couple of weeks before I can do this as off on leave.

Kind regards Martin

From: Fraser MacKenzie <<u>MacKenzieF@angus.gov.uk</u>>
Sent: 19 July 2021 09:12
To: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>; Steven D Thomson <<u>ThomsonSD@angus.gov.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

Good Morning Martin. That's great. Thank you.

Fraser MacKenzie I Planning Officer (Development Standards) I Angus Council I 01307 492198 I <u>mackenzief@angus.gov.uk</u> I <u>www.angus.gov.uk</u> Think green – please do not print this email. <u>COVID-19</u> For the latest information on how our service has been affected <u>CLICK HERE</u>

From: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>
Sent: 19 July 2021 09:11
To: Fraser MacKenzie <<u>MacKenzieF@angus.gov.uk</u>>; Steven D Thomson
<<u>ThomsonSD@angus.gov.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

HI Fraser

Had a chat with Steve about this one, we aren't fully convinced regarding all the issues raised by the complaint from the top floor flat, however I am going to try and speak to the neighbour directly above, who will be worst affected. I will come back to you after that to let you know what the situation is.

Kind regards Martin

From: Fraser MacKenzie <<u>MacKenzieF@angus.gov.uk</u>>
Sent: 15 July 2021 11:51
To: Steven D Thomson <<u>ThomsonSD@angus.gov.uk</u>>
Cc: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

Good Morning Steve and Martin,

They've completed the necessary land ownership certificate indicating not all land subject to the development is in their ownership and all other land owners have been notified, so it's procedurally correct from a planning standpoint. (One landowner did contract us through public comment advising they weren't notified but I understand this was resolved some time ago).

If the landowner isn't permitting them to attach the flue to their building, it's reasonable to assume that could stop the development it in its tracks. However, t's a civil matter, so wouldn't necessarily prevent the granting of planning permission for the development. The neighbouring land owner would have to pursue their own course of action in that regard.

If we now have complaints that a third party are being affected by odour, is it ok to just rely on further information from the applicant? My apologies, it's in no way for me to suggest to you guys how to handle environmental health matters but, as a layman, if there are complaints that the (currently unauthorised) system is causing odour issues for neighbours, is this not indicative that it's not working?

I'd be a bit concerned about approving this on the basis of grease filters or similar being provided for an existing system that may not be successfully

mitigating odour issues? Who regulates the provision and maintenance of this system going forward? What if this changes from a pizza shop to a fish and chip shop (which it could without further planning permission, provided the types of food/methods of cooking aren't regulated by condition) and results in worse impacts?

# Kind Regards,

Fraser MacKenzie I Planning Officer (Development Standards) I Angus Council I 01307 492198 I mackenzief@angus.gov.uk I www.angus.gov.uk Think green – please do not print this email. <u>COVID-19</u> For the latest information on how our service has been affected <u>CLICK HERE</u>

From: Steven D Thomson <<u>ThomsonSD@angus.gov.uk</u>>
Sent: 14 July 2021 15:20
To: Fraser MacKenzie <<u>MacKenzieF@angus.gov.uk</u>>
Cc: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

Fraser sorry to add to what Martin has said below.

I can also advise that the complainant is alleging that they do not have permission to attach the flue to her building. Can you confirm if this is something which the Planning service requires? Thanks

steve

Steven Thomson, Team Leader, Environmental Health (Environmental Protection) Angus Council, Place, Regulatory & Protective Services, Angus House, Orchardbank business park, Forfar DD8 1AN Telephone 01307 492577

From: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>
Sent: 14 July 2021 15:09
To: Steven D Thomson <<u>ThomsonSD@angus.gov.uk</u>>; Fraser MacKenzie
<<u>MacKenzieF@angus.gov.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

HI Fraser

Can't remember if I updated you, but the applicant is getting in a professional to have a look over the ventilation system as he has no real idea of what it is comprised of nor any paperwork.

Just to clear up any confusion, at the point when I get that info back, I will be recommending conditions for both noise and odour, sorry if that wasn't clear from my earlier response.

Kind regards Martin Martin and Fraser please see the attached which I have just received today from a neighbour. Can someone please update me on where we are in terms of Planning.

Thanks

#### steve

Steven Thomson, Team Leader, Environmental Health (Environmental Protection) Angus Council, Place, Regulatory & Protective Services, Angus House, Orchardbank business park, Forfar DD8 1AN Telephone 01307 492577

From: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>
Sent: 22 June 2021 11:28
To: Fraser MacKenzie <<u>MacKenzieF@angus.gov.uk</u>>
Cc: Steven D Thomson <<u>ThomsonSD@angus.gov.uk</u>>
Subject: RE: Peak Acoustics Confirmation Documents - 06052110

# Hi Fraser

I have now had a chance to look over this document and the previously sent odour risk assessment. I have some minor issues with the noise assessment but am reasonably content that this development can meet the standard plant noise conditions, particularly as the proposed opening times are until 23.00 and not later. Patron noise was also assessed and I am reasonably content this should not be an issue.

The applicant also attached an odour risk assessment which deemed the odour risk to be lowmedium, due mainly to the small size of the outlet and the fact that pizza is a relatively low odour food to cook. The EMAQ guidance document states that low to medium level control may include fine filtration or ESP followed by carbon filtration with a 0.1 second residence time.

The applicant has not given any information on filtration and states on their email dated 29/3/2021 that Grease and Pre filters are N/A. This application is in retrospect, with the ventilation system already installed, it would be unusual not to have any kind of filtration from the kitchen extract, therefore I am looking for some confirmation of this. The applicant also didn't supply details on the fan and extract rate. I appreciate that as this is in retrospect, some of this information may not be readily to hand but it would aid me in my assessment.

If you have any further queries, please do not hesitate to contact me.

Kind regards Martin

From: Fraser MacKenzie <<u>MacKenzieF@angus.gov.uk</u>>
Sent: 10 June 2021 10:02
To: Martin Petrie <<u>PetrieM@angus.gov.uk</u>>
Subject: FW: Peak Acoustics Confirmation Documents - 06052110

Good Morning Martin,

From:	Martin Petrie
To:	Ed Taylor
Cc:	Steven D Thomson
Subject:	FW: 20/00772/FULL
Date:	23 September 2021 10:50:36

# Hi Ed

Further to my last response attached below, I can advise that EH would disagree on the odour risk assessment score which was submitted to the agent on the basis that the flue does not terminate 1m above the ridge with an efflux velocity of 15m/s. The flue terminates above eaves but below the ridge and there have been no calculations provided showing what the efflux velocity is, therefore rather than a low odour risk, I would categorise it as high in terms of the EMAQ guidance document.

If you have any further queries please do not hesitate to contact me Kind regards Martin

# From: Martin Petrie

Sent: 16 August 2021 15:37 To: Ed Taylor <<u>TaylorE@angus.gov.uk</u>> Cc: Steven D Thomson <<u>ThomsonSD@angus.gov.uk</u>> Subject: 20/00772/FULL

## Hi Ed

This hot food takeaway application has been ongoing for a while, as there are residential properties directly above, we were looking for some proof that it could operate without causing odour or noise issues at the flats above. To this end, the height of the ventilation flue was increased, however the applicant has not been able to provide further details regarding the configuration and make-up of the ventilation system. The applicant has also provided a noise impact assessment as required by planning advice note 2/2018.

This takeaway was operating without permission a few months ago, but I understand this has since ceased. Due to the fact we could not get a full description of the ventilation system, I made some queries locally regarding the period when the takeaway was operating. According to one neighbour, there was odour and general kitchen noise each time the takeaway was open. I understand that since then, the pizza oven has been moved directly under the ventilation system, which may improve the situation. The fact that one of the neighbours was experiencing these issues may imply that insulation between the properties is sub-standard. This may affect the findings of the noise impact assessment which assumed fairly standard construction in modelling the noise arising. I was reasonably happy with this approach at the time, however in light of the new information, it would be remiss of me not to raise this issue.

I also recently visited the premises to try and glean more information regarding the ventilation system, as the applicant was not able to provide this. Upon inspection, it seems that there are no filters other than simple baffle filters servicing the system. There appears to be no proper grease filtration, and probably no carbon filters to prevent odour issues. The lack of grease filtration is highlighted by the fact that there was some grease dripping down the ventilation fan, despite the kitchens relatively short time in use. This is an issue which would build up over time,

increasing the chances of loss of amenity and potential statutory nuisance.

The shop itself is a relatively small premises, and whilst it has its own front access, it shares the back access through the close. I assume this access will be required for their bins, which could contribute to loss of residential amenity through noise.

Due to these issues, I am not in a position to support this application at this stage.

If you have any further queries please do not hesitate to contact me.

Kind regards Martin

# AC5 Comments for Planning Application 20/00772/FULL

# **Application Summary**

Application Number: 20/00772/FULL Address: 74 Marketgate Arbroath DD11 1AT Proposal: Change of use to hot food takeaway and erection of external extraction equipment (retrospective) Case Officer: Fraser MacKenzie

# **Customer Details**

Name: Miss Amanda Goodwin Address: 76c Marketgate Arbroath Dd111at

# **Comment Details**

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons: Comment:I don't want the takeaway shop to go ahead because 1, the gene ants were arguing in the street 2,the chimney they have put up at the back of their building squeaks like mad in the wind as it's near my window 3,now it's going to be a hot food takeaway and lockdown nearing an end we will have loads of young people outside chucking litter ,and blocking the path outside 3,the people of 74 keep coming in our closey moving all our bins which they don't put back this is our fire escape and our only way of getting out and if they can't put stuff back which they can't I think it's a total hazard also they moved my neighbours bicycle and left it across the road to which any one could of stolen it Really don't think this is a good idea at all

# **Comments for Planning Application 20/00772/FULL**

# **Application Summary**

Application Number: 20/00772/FULL Address: 74 Marketgate Arbroath DD11 1AT Proposal: Change of use to hot food takeaway and erection of external extraction equipment (retrospective) Case Officer: Fraser MacKenzie

# **Customer Details**

Name: Mr Neil Boylan Address: 3 North street Newtyle PH128TU

# **Comment Details**

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment:As the owner of the flats above I received a call from the agent asking for my details to send correspondence to. I advised that I wasn't keen on the proposal as it passes via my window on the rear. He advised he would forward notification details to me. As of 13 March 2021 I have not received notification.

# AC7

# **Comments for Planning Application 20/00772/FULL**

# **Application Summary**

Application Number: 20/00772/FULL Address: 74 Marketgate Arbroath DD11 1AT Proposal: Change of use to hot food takeaway and erection of external extraction equipment (retrospective) Case Officer: Fraser MacKenzie

# **Customer Details**

Name: Mrs Kyran Hunter Ferrie Address: 70 Marketgate Arbroath DD11 1AT

# **Comment Details**

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment:As direct neighbours to the proposed take away. We would like to enquire about opening hours - particularly late night hours. Late opening hours will likely bring noise to a residential area largely occupied by families.

Additionally we would like to know about the use of gas in the property, and if using outside gas bottles will these be safe enough to use in a residential area?





# 74 Marketgate, Arbroath, DD11 1AT



Map area bounded by: 364165,740744 364307,740886. Produced on 07 December 2020 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2020. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p2cuk/545409/738684

Ci.



AC9






ANGUS COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013



### PLANNING PERMISSION REFUSAL REFERENCE : 20/00772/FULL

To Pizzeria Kamilo c/o L D Bertram Garlowbank Farmhouse Kirriemuir Angus DD8 4LH

With reference to your application dated 15 February 2021 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

# Change of use to hot food takeaway and erection of external extraction equipment (retrospective) at 74 Marketgate Arbroath DD11 1AT for Pizzeria Kamilo

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docqueted as relative hereto in paper or identified as refused on the Public Access portal.

### The reasons for the Council's decision are:-

- 1. That the proposal does not comply with the locational guidance for the siting of hot food takeaways provided in Angus Council Advice Note 2/2018 and is likely to give rise to unacceptable adverse impacts on the amenity of those that live in the area contrary to Policy DS4 of the Angus Local Development Plan.
- 2. It has not been demonstrated that the proposed hot food takeaway could operate from the premises in a manner that would not give rise to unacceptable odour and noise impacts on the occupants of nearby residential property and as such the proposal is contrary to Policy DS4 of the Angus Local Development Plan, and Angus Council Advice Note 2/2018.

### Amendments:

The application has not been subject of variation.

Dated this 29 September 2021

Jill Paterson Service Lead Planning and Sustainable Growth Angus Council Angus House Orchardbank Business Park Forfar DD8 1AN

AC11

#### Planning Decisions – Guidance Note

### Please retain – this guidance forms part of your Decision Notice

You have now received your Decision Notice. This guidance note sets out important information regarding appealing or reviewing your decision. There are also new requirements in terms of notifications to the Planning Authority and display notices on-site for certain types of application. You will also find details on how to vary or renew your permission.

#### Please read the notes carefully to ensure effective compliance with the new regulations.

#### DURATION

This permission will lapse 3 years from the date of this decision, unless there is a specific condition relating to the duration of the permission or development has commenced by that date.

### PLANNING DECISIONS

### Decision Types and Appeal/Review Routes

The 'decision type' as specified in your decision letter determines the appeal or review route. The route to do this is dependent on the how the application was determined. Please check your decision letter and choose the appropriate appeal/review route in accordance with the table below. Details of how to do this are included in the guidance.

Determination Type	What does this mean?	Appeal/Review Route
Development Standards Committee/Full Council	National developments, major developments and local developments determined at a meeting of the Development Standards Committee or Full Council whereby relevant parties and the applicant were given the opportunity to present their cases before a decision was reached.	DPEA (appeal to Scottish Ministers) – See details on attached Form 1
Delegated Decision	Local developments determined by the Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	Local Review Body – See details on attached Form 2
Other Decision	All decisions other than planning permission or approval of matters specified in condition. These include decisions relating to Listed Building Consent, Advertisement Consent, Conservation Area Consent and Hazardous Substances Consent.	DPEA (appeal to Scottish Ministers) – See details on attached Form 1

### Notification of initiation of development (NID)

Once planning permission has been granted and the applicant has decided the date they will commence that development they must inform the Planning Authority of that date. The notice must be submitted before development commences – failure to do so would be a breach of planning control. The relevant form is included with this guidance note.

### Notification of completion of development (NCD)

Once a development for which planning permission has been given has been completed the applicant must, as soon as practicable, submit a notice of completion to the planning authority. Where development is carried out in phases there is a requirement for a notice to be submitted at the conclusion of each phase. The relevant form is included with this guidance note.

### Display of Notice while development is carried out

For national, major or 'bad neighbour' developments (such as public houses, hot food shops or scrap yards), the developer must, for the duration of the development, display a sign or signs containing prescribed information.

The notice must be in the prescribed form and:-

- displayed in a prominent place at or in the vicinity of the site of the development;
- readily visible to the public; and
- printed on durable material.

A display notice is included with this guidance note.

Should you have any queries in relation to any of the above, please contact:

Angus Council Angus House Orchardbank Business Park Forfar DD8 1AN

Telephone	01307 492076 / 492533
E-mail:	<u>planning@angus.gov.uk</u>
Website:	<u>www.angus.gov.uk</u>



# TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

### The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 1

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions decided by Angus Council

- 1. If the applicant is aggrieved by the decision of the planning authority
  - a) to refuse permission for the proposed development;
  - b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may appeal to the Scottish Ministers to review the case under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of appeal should be addressed to The Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. Alternatively you can submit your appeal directly to DPEA using the national e-planning web site <u>https://eplanning.scotland.gov.uk</u>.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



# TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

Δ(]]

### The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 2

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions decided through Angus Council's Scheme of Delegation

- 1. If the applicant is aggrieved by the decision of the planning authority
  - a) to refuse permission for the proposed development;
  - b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of review should be addressed to Committee Officer, Angus Council, Resources, Legal & Democratic Services, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

A Notice of Review Form and guidance can be found on the national e-planning website <u>https://eplanning.scotland.gov.uk</u>. Alternatively you can return your Notice of Review directly to the local planning authority online on the same web site.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



### Your experience with Planning

Please indicate whether you agree or disagree with the following statements about your most recent experience of the Council's handling of the planning application in which you had an interest.

Q.1 I was given t	he advice and he	elp I needed to submit r	my application/r	epresentation:-	
Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
Q.2 The Council	kept me informed	l about the progress of	the application t	hat I had an interest in:-	
Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
Q.3 The Council	dealt promptly wi	th my queries:-			
Strongly Agree	Agree	Neither Agree nor	Disagree	Strongly Disagree	It does not
		Disagree			apply
Q.4 The Council	dealt helpfully wit	h my queries:-			
Strongly Agree	Agree	Neither Agree nor	Disagree	Strongly Disagree	It does not
		Disagree			apply
Q.5 I understand	the reasons for th	e decision made on th	e application that	at I had an interest in:-	
Strongly Agree	Agree	Neither Agree nor	Disagree	Strongly Disagree	It does not
		Disagree			apply
Q.6 I feel that I w	as treated fairly a	nd that my view point v	was listened to:-		
Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
OVERALL SATISFACTIO	N: Over	all satisfaction with the s	service:		
-	-	••		d taking everything intended to the second determined of the second det	
Very satisfied	Fairly satisfie	d Neither Satisfie Dissatisfie		rly Dissatisfied Ve	ery Dissatisfied
OUTCOME: Ou	itcome of the app	olication:			
Q.8 Was the app	lication that you h	nad an interest in:-			
Granted Permission/	Consent	Refused Permiss	sion/Consent	Withda	awn
Q.9 Were you the:	- Applican	t Agent [		Third Party objector wh made a representation	

Please complete the form and return in the pre-paid envelope provided. Thank you for taking the time to complete this form. Supporting Statement for Application no 20/00772/FULL

74, Marketgate, Arbroath.

Change of use to hot food takeaway and erection of external extraction equipment.

- 1 Cooking of the pizzas will be done using an Italforni Pesaro model TKA-21 oven.
- 2 The extraction flue from the premises will be 150mm diameter stainless steel pipe.
- The hours of opening will be: Monday – Thursday 11am – 10pm Friday/Saturday 11am – 11pm Sunday 12 noon – 10pm.
- 4 The number of staff will be 2 plus a delivery driver.
- 5 The type of food prepared will only be Pizzas with various toppings. There will also be a fridge with cans of juice for sale.
- 6 Cooking methods that will be used in making the Pizza are simple mixing the ingredients for the Pizza bases in a mixer. Pizza toppings will be brought in.
- 7 The neighbour's properties are not in the applicants nor owners ownership. Contact has been made with the neighbours and they all seem okay with the proposal

### **Risk Assessment for Odour**

Odour control must be designed to prevent odour nuisance in a given situation. The following score methodology is suggested as a means of determining odour control requirements using a simple risk assessment approach. The odour control requirements considered here are consistent with the performance requirements listed in this report.

IMPACT RISK	ODOUR CONTROL	SIGNIFICANCE
LOW TO MEDIUM	Low level of odour control	Less than 20
HIGH	High level of odour control	20 to 35
VERY HIGH	Very high level of odour control	more than 35

Based on the sum of contributions from dispersion, proximity of receptors, size of kitchen and cooking type:

Criteria	Score	Score	Details
Dispersion	Very poor	20	Low level discharge, into courtyard or restriction on stack
	poor	15	Not low level but below eaves or discharge at below 10m/s
	moderate	10	Discharge 1m above eaves at 10-15 m/s
	good	✓ 5	Discharge 1m above ridge at 15m/s
Proximity of receptors	close	10	Closest sensitive receptor <20m from kitchen discharge
	medium	5	Closest sensitive receptor between 20m and 100m from kitchen discharge
1	far	1	Closest sensitive receptor >100m from kitchen discharge
Size of kitchen	large	5	More than 100 covers or large sized takeaway
	medium	3	Between 30 and 100 covers or medium sized takeaway
	small	V1	Less than 30 covers or small takeaway
Cooking type	Very high	10	Pub (high level of fried food), fried chicken, burgers, or fish and chips
(odour &	high	7	Kebab, Vietnamese, Thai or Indian
grease load )	medium	4	Cantonese, Japanese or Chinese
	low	V1	Most pubs, Italian, French, pizza or steakhouse
TOTAL		17	PIZZERIA KAHILIO 74, HARKETGATE, ARBROATH

### Effectiveness of Various Abatement Systems

Abatement Type	Level of Odour Abatement
Panel and bag	none
Panel, bag and HEPA Filter	none
Pre, fine and Carbon Filter	High
Panel, bag, HEPA and Carbon Filter	High to very high
ESP and Carbon Filter	High to very high
ESP and counteractant	Medium to high
ESP and UV/ozone	High

 \* HEPA = High Efficiency Particulate Air Filter ESP = Electrostatic Precipitator

# **PEAK** acoustics

Noise Assessment Report

Email: sales@acousticsurveys.co.uk |Office: 0330 043 1764 Web: www.acousticsurveys.co.uk Peak Acoustics Ltd, Fernbank House, Springwood Way, Macclesfield, SK10 2XA Rev. 0.0 10/06/2021



# **Noise Impact Assessment**

Report Reference Number: KD06052110NR

**Client:** Brian Toner

Site: 74 Marketgate, Arbroath, DD11 1AT

### **Project Consultant**

K. Donald, BSc (Hons) AMIOA Acoustic Consultant kyle@acousticsurveys.co.uk

### **Proofing Consultant**

N. Mitchell, BSc (Hons) Acoustic Consultant nick@acousticsurveys.co.uk



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# **Assessment Summary**

A Noise Impact Assessment has been undertaken for a change of use to provide a takeaway at 74 Marketgate, Arbroath, DD11 1AT.

The assessment includes considerations for a kitchen extraction system that is present at the rear of the property and internal sound transmission to first-floor habitable rooms directly above the premises.

The nearest or most-affected Noise Sensitive Receptor (NSR) for the assessment was identified as the existing residential apartment situated directly above the premises. The closest second floor window was considered as the reception point for the kitchen extraction assessment.

Calculated noise levels from the kitchen extraction system at the closest NSR window were indicated to be within Angus Councils criteria of NR35. No mitigation for the kitchen extraction system was deemed necessary.

Assumed details of the separating floor construction were provided and modelled in sound insulation modelling software, Insul (Marshall Day Acoustics). Calculated sound transmission levels to first-floor rooms were indicated to be within Angus Councils criteria of NR25. No enhancements or alterations to the ceiling are deemed necessary.

# 1. Introduction

- 1.1 A Noise Impact Assessment has been undertaken at 74 Marketgate, Arbroath, DD11 1AT in relation to a proposed change of use to provide a hot food takeaway and erection of external extraction equipment (retrospective).
- 1.2 The proposed hours of opening for the business are as follows:
  - Monday Thursday: 1100 2200
  - Friday Saturday: 1000 2300
  - *Sunday*: 1200 2200
- 1.3 The kitchen extraction system ducts at the rear of the premises and terminates at roof level. The exact make and model of the installed fan unit could not be identified. Worst-case assumed noise levels for the extraction fan have therefore been sourced for use in the assessment.
- 1.4 Details of the separating floor construction between ground and first floor have been provided by the applicant for the consideration of internal sound transmission to first floor habitable rooms.

### 2. Assessment Criteria

- 2.1 Peak Acoustics liaised with Environmental Health Officer, Martin Petrie, of Angus Council to determine criteria for the assessment. The following criteria were communicated.
  - Kitchen Extraction System Noise: NR35 (Daytime, 07:00 23:00), NR25 (Night-time, 23:00 07:00) at 1m from the nearest noise sensitive receptor.
  - Internal Sound Transmission: Noise from operations of the takeaway should not exceed NR25 in first-floor habitable rooms.

### 3. Noise Sensitive Receptors

- 3.1 The nearest or most-affected Noise Sensitive Receptor (NSR) has been identified as the first-floor residential flat directly above the proposed premises at 74 Marketgate.
- 3.2 For the assessment of the kitchen extraction system, the closest window of the second-floor property to the extraction flue will be considered as the specific reception point in calculations.

# 4. Site Description

4.1 74 Marketgate is located in the centre of Arbroath, on the East coast of Scotland. Adjacent and opposite the site are various other small commercial businesses which include a Dog groomers, Bank and Bar.

### 5. Site Location

5.1 The site location is shown in Figure 1 below.

Figure 1: Site Location





• Kitchen Extract Flue Discharge (Approx.)

# **Kitchen Extraction Noise Assessment**

### 6. Source Noise Levels

- 6.1 The exact make and model of the installed fan unit could not be determined but the size was indicated to be approximately 200 250mm. As such, representative worst-case noise levels for a 350mm fan unit have been sourced for use in calculations.
- 6.2 The extract sound power levels (L<sub>wA</sub>) for the example fan unit are given below:

Source	LwA	63	125	250	500	1k	2k	4k	8k	dBA
Fan Unit Noise Levels (assumed)		68	68	60	57	58	58	53	47	64
				Table	a. Kitala			· · · · · ·		

Table 2: Kitchen Extraction System Sound Power levels

### 7. Kitchen Extraction – Assessment Outcome

- 7.1 Noise levels from the kitchen extraction system to the NSR location have been calculated whilst accounting for attenuation through the ductwork, end reflections, directivity, geometric divergence, and atmospheric absorption. Full calculations are provided in Appendix A.
- 7.2 The calculated levels at the nearest second-floor window of the NSR have been compared to the daytime NR35 criteria. As described in section 1.2, the business is to operate no later than 2300, assessment to night-time criteria is therefore not deemed applicable.

	63	125	250	500	1k	2k	4k	8k	dBA
Noise levels at NSR 2F Window	38	41	34	27	7	-3	-8	-25	30
NR35	63.1	52.4	44.5	38.9	35.0	32.0	29.8	28.0	
Difference, dB	-25	-11	-11	-12	-28	-35	-38	-53	

Table 3: Kitchen Extraction – Assessment Outcome

7.3 Table 3 demonstrates that noise from the kitchen extraction system at the nearest first-floor window are below the daytime NR35 criteria. No mitigation to reduce noise levels is deemed necessary.

# **Internal Sound Transmission Assessment**

### 8. Introduction and Criteria

- 8.1 Directly above the proposed take-away premises at first floor level is an existing residential apartment. To ensure internal noise associated with the takeaway use does not result in any loss of amenity for the first-floor occupants, an assessment of internal sound transmission is to be undertaken.
- 8.2 Environmental Health Officer for Angus Council, Martin Petrie, specified that noise levels in firstfloor habitable rooms should be within the criteria of NR25.

### 9. Internal Noise Levels

9.1 The primary noise sources within the takeaway are likely to be from spoken voice from employees/customers and possible music from a small internal speaker system. Spectral data for typical low-level music have been sourced from Peak Acoustics library data. Noise levels for spoken voice have been sourced from 'ANSI 3.5-1997' - American National Standard – Methods for Calculation of the Speech Intelligibility Index (1997)'. Using these sources, a cumulative internal noise level for the use has been calculated whilst noting the small size of the premises. The assumed internal noise levels for the assessment are tabulated below.

Source	63	125	250	500	1k	2k	4k	dBA
Spoken Voice / Music	41	51	63	66	59	55	50	65

Table 4: Takeaway - Assumed Internal Noise Levels

# **10.** Floor/Ceiling Sound Insulation

- 10.1 Assumed details of the existing floor/ceiling construction have been provided by the applicant. The overall build-up is summarised below.
  - 25mm Timber floorboards
  - 200mm Timber joists at 400mm centre spacing
  - 100mm mineral wool insulation between joists (Assumed Low Density of 10kg/m<sup>3</sup>)
  - 2x No. 12.5mm Standard plasterboard

10.2 Sound insulation modelling software, *Insul (Marshall Day Acoustics),* has been utilised to provide a prediction of the sound insulation performance for use in internal sound transmission calculations, this is tabulated below.

Element		Rw						
	63	125	250	500	1k	2k	4k	dB
Separating Floor/Ceiling	15	14	37	41	40	48	55	41

Table 5: Separating Floor Sound Insulation Performance

10.3 A detailed sound insulation model is given in Appendix B.

### **11. Internal Sound Transmission Outcome**

11.1 Internal sound transmission from the proposed takeaway unit to the first-floor habitable rooms directly above has been calculated using the noise levels given in Table 4 and the sound insulation performance given in Table 5. The predicted internal sound transmission is tabulated below.

Internal Space/Criteria	63	125	250	500	1k	2k	4k	dBA
Ground Floor Take-away (Source Room)	41	51	63	66	59	55	50	65
First-floor Habitable room (Receiver Room)	29	40	29	28	22	10	-2	29
NR25	55.2	43.7	35.2	29.2	25.0	21.9	19.5	-
Difference, dB	-26	-4	-6	-1	-3	-12	-20	-

Table 6: Internal Sound Transmission

- 11.2 Table 6 demonstrates that internal noise levels within first-floor habitable rooms are predicted to be within the criteria of NR25. No enhancements to the ceiling are deemed necessary.
- 11.3 Full calculations are given in Appendix A.

# **12.** Conclusion

- 12.1 A noise impact assessment has been undertaken at 74 Marketgate, Arbroath, DD11 1AT in relation to a change of use to provide a takeaway with an associated kitchen extraction system. The extraction system ducts and discharges at the rear of the property.
- 12.2 The assessment includes considerations for noise from the extraction flue and internal sound transmission through the separating floor.
- 12.3 The nearest or most-affected Noise Sensitive Receptor (NSR) was identified as the residential flat directly above the premises at first and second floor level.
- 12.4 An assessment of the kitchen extraction system indicated noise levels at the closest second floor window to be within NR35, achieving the criteria set by Angus Council.
- 12.5 Calculations of internal sound transmission indicated that noise levels in first-floor habitable rooms to be within NR25, achieving the criteria set by Angus Council.

# AC14

# **APPENDIX A - Calculations**

Kitchen Extraction System										
Fan Unit	Para.	63	125	250	500	1k	2k	4k	<b>8</b> k	dBA
Example Noise levels for 355mm Fan	LwA	68	68	60	57	58	58	53	47	64
Attenuator		0	0	0	0	0	0	0	0	
Attenuation (dB/m Duct)	150mm	-2.6	-2.6	-2.0	-1.4	-1.4	-1.4	-1.4	-1.4	
End Reflections	150mm	-8	-4	-1	0	0	0	0	0	
Directivity Effect (120°)	150mm	-2	-3	-6	-12	-33	-43	-43	-53	
Distance Attenuation (ISO-9613)	2m	-17	-17	-17	-17	-17	-17	-17	-17	
Atmospheric Attenuation (ISO-9613)	2m	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-0.2	
Sound Pressure Level at NSR	LpA	38	41	34	27	7	-3	-8	-25	30
NR35		63.1	52.4	44.5	38.9	35.0	32.0	29.8	28.0	
Difference		-25	-11	-11	-12	-28	-35	-38	-53	

#### Internal Sound Transmission

	Room to Room S	ound Transmission	Calculation
1.11			

Description:

Calculation of internal sound trasmission from ground floor to first floor habitable rooms

1/1 Octave Centre-Freq. Band	Hz	<b>63</b>	125	250	500	1k	2k	4k	dBA
Take-away noise	dB	41	51	63	66	59	55	50	65
R1 Floor	R, dB	15	14	37	41	40	48	55	
R2	R, dB	0	0	0	0	0	0	0	
R3	R, dB	0	0	0	0	0	0	0	
Comp R	Rcomp, dB	-15	-14	-37	-41	-40	-48	-55	
Receiver Room Level	dB	29	40	29	28	22	10	-2	29



# AC14

# **APPENDIX B – Sound Insulation Model**



# **APPENDIX C – Acoustic Terminology**

To aid the understanding of acoustic terminology and the relative difference between noise levels the following background information is provided.

We perceive sound when the ear detects fluctuations in air pressure (sound waves), which are then processed by the brain and perceived as sound. Humans can hear an incredibly wide range of sound intensities ranging from jet engines to fingertips lightly brushing against each other. This range is quantified using a logarithmic scale called the decibel scale (dB). The comfortable range of the decibel scale typically ranges from 0dB (the threshold of hearing) to around 140dB. Here are some examples common environments and their typical noise levels.

Noise Level	Environment		
0 dB(A)	Threshold of hearing		
20 to 30 dB(A)	Quiet bedroom at night		
30 to 40 dB(A)	Living room during the day		
40 to 50 dB(A)	Typical office		
50 to 60 dB(A)	Inside a moving car		
60 to 70 dB(A)	Typical high street		
100 to 110 dB(A)	Fire alarm at 1 metre away		
140 dB(A)	Threshold of pain		

### Terminology

dB (decibel) – A unit used to quantify the pressure level of sound. Defined as 20 times the logarithm of the ratio between the root-mean-square pressure of a given sound field and a reference pressure level ( $2x10^{-5}$  Pa – threshold of hearing).

L<sub>Aeq,T</sub> – The equivalent continuous sound pressure level over a stated period. It quantifies a fluctuating sound level over a given period as the equivalent continuous sound level in which the same amount of acoustic energy is contained over. This is A-weighted in order to assess human perception.

 $L_{A90}$  – The sound level exceeded 90% of the time. Typically used to describe background noise the L<sub>90</sub> is regarded as the 'average minimum level' and quantifies the common sound level of a fluctuation sound field i.e. the sound level that occurs 90% of the time. Alternatively, L<sub>10</sub> describes the sound level exceeded 10% of the time and therefore quantifies the 'average maximum level' of sound which is often used during the calculation of road traffic noise.

A-Weighting – A standard weighting of the audible frequencies designed to reflect the response of the human ear to noise.

 $R_w$  — The Weighted Sound Reduction Index ( $R_w$ ) is a number used to rate the effectiveness of a soundproofing system or material.





# Let us introduce ourselves

Peak Acoustics formed in 2011, we are a fully accredited specialist consultancy and testing organisation.

We are a diverse team of Acoustic Consultants, Specialist Engineers and Building Compliance Technicians, with a network spanning the UK. We are proud to offer our services nationally, with no job too big or small.

We provide Acoustic Consultancy, Building Compliance Testing and Energy Services.

# Additional Services

We offer an extensive range of services in the sectors of Acoustic Consultancy, Building Compliance & Energy Efficiency. We are able to put together custom packages combining multiple services which saves both time and money for you.

### **Building Compliance**

- Sound Insulation Testing
- Air Tightness Testing
- Ventilation Testing
- Water Efficiency Calculations
- Sound Insulation Specification

### Energy Efficiency

- SAP Calculations
- EPC's
- SBEM Calculations
- Energy Statements
- Sustainability Statements
- MEES Regulations
- Commercial EPC's

#### Acoustic Consultancy

- Noise Assessment for planning conditions
- Construction site noise
   monitoring
- Noise at work assessments
- Noise & Vibration Impact Assessments

#### Peace of mind

We are accredited and registered by all the relevant major UK authorities to provide the services we offer. Peak Acoustics is UKAS accredited for sound insulation testing, ATTMA registered for Air Leakage Testing. and our Energy team are all Domestic On-Completion Energy Assessors.

#### Our Added Value

We combine our detailed knowledge of building regulations with our technical understanding of building physics, acoustics and environmental sciences to maximise development quality. Our work ensures appropriate strategies and studies are prepared to demonstrate to local authorities how proposed developments will be of high quality and generate acceptable impact on the surrounding environment.

# Contact Us

#### Head Office:

Peak Acoustics Fernbank House Springwood Way, Macclesfield, SK10 2XA

Tel: 0330 043 1764 Email: <u>sales@acousticsurveys.co.uk</u> Website: acousticsurveys.co.uk

Opening hours Mon - Fri: 8:30 - 17:00

# **APPENDIX 2**

# DEVELOPMENT MANAGEMENT REVIEW COMMITTEE APPLICATION FOR REVIEW – 74 MARKETGATE, ARBROATH APPLICATION NO 20/00772/FULL APPLICANT'S SUBMISSION

Page No

- ITEM 1 Notice of Review
- ITEM 2 Appeal Statement
- ITEM 3 Peak Acoustics Noise Assessment Report & Addendum
- ITEM 4 Copy Correspondence with Angus Council
- **ITEM 5** Copy Correspondence with Peak Acoustics
- **ITEM 6** Copy Correspondence from Neighbouring Properties

Angus						
Angus House Orchardban plnprocessing@angus.gc	nk Business Park Forfar DD8 1AN  Tel: 013 vv.uk	307 473360  Fax: 01307	461 895 Email:			
Applications cannot be va	alidated until all the necessary documentation	on has been submitted a	and the required fee has been paid.			
Thank you for completing	this application form:					
ONLINE REFERENCE	100488793-001					
The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.						
Applicant or Agent Details Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)						
Applicant Det	ails					
Please enter Applicant de	etails					
Title:	Mr	You must enter a Bu	ilding Name or Number, or both: *			
Other Title:		Building Name:				
First Name: *	Kamil	Building Number:	74			
Last Name: *	Zegarowski	Address 1 (Street): *	Marketgate			
Company/Organisation	Pizzeria Kamilo	Address 2:				
Telephone Number: *		Town/City: *	Arbroath			
Extension Number:		Country: *	Scotland			
Mobile Number:		Postcode: *	DD11 1AT			
Fax Number:		]				
Email Address: *						

Site Address Details								
Planning Authority:	Ining Authority: Angus Council							
Full postal address of the site (including postcode where available):								
Address 1:	74 MARKETGATE							
Address 2:								
Address 3:								
Address 4:								
Address 5:								
Town/City/Settlement:	ARBROATH							
Post Code:	DD11 1AT							
	e location of the site or sites	Easting	364236					
Description of Proposal Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: * (Max 500 characters) Application dated 15 February 2021. Change of use to hot food takeaway and erection of external equipment (retrospective) at 74 Marketgate Arbroath DD11 1AT for Pizzeria Kamilo.								
Type of Application         What type of application did you submit to the planning authority? *         Application for planning permission (including householder application but excluding application to work minerals).         Application for planning permission in principle.         Further application.         Application for approval of matters specified in conditions.								

What does	s vour	review	relate	to?	*
villat ubes	s your	ICVICW	ICIALE	iU i	

X	Refusal	Notice
---	---------	--------

Grant of permission with Conditions imposed.

No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

### Statement of reasons for seeking review

You must state in full, why you are a seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

I am seeking a review of the planning authority's decision as follows: 1. Authority did not come to a decision within a set time which in my understanding is 8-13 weeks if not written consent to extend the period should be obtained. I did not received written consent. Delay in decision caused me financial loss and hardship. 2. Reason no. 1. for refusal is that the proposal does not comply with the locational guidance for the siting of hot food takeaways. Cont. 'Supporting Documents'.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made?  $^{\ast}$ 

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

1. Notice that has been displayed in a prominent place at the vicinity of the site readily and visible to members of the public from a public place with notes from public/neighbours. 2. Peak acoustic noise impact assessment report. 3. Emails exchanged regarding noise report and lack of contact with person who was responsible for application before taken over by Kyle Donald. 4. Email exchange regarding ventilation.

# **Application Details**

Please provide the application reference no. given to you by your planning authority for your previous application.	20/00772/FULL
What date was the application submitted to the planning authority? *	15/02/2021
What date was the decision issued by the planning authority? *	29/09/2021

# **Review Procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review
process require that further information or representations be made to enable them to determine the review. Further information may be
required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or
inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. X Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your	our opinion:
Can the site be clearly seen from a road or public land? *	🗙 Yes 🗌 No
Is it possible for the site to be accessed safely and without barriers to entry? *	🗙 Yes 🗌 No

Is it possible for the site to be accessed safely and without barriers to entry? \*

# Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Have you provided the date and reference number of the application which is the subject of this	
review? *	

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Have you provided a statement setting out your reasons for requiring a review and by what
procedure (or combination of procedures) you wish the review to be conducted? *

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

] No

X Yes No

X Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

# Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

22/10/2021

**Declaration Name:** Mr Kamil Zegarowski

Declaration Date:

Cont. reasons for review application.

Cont 2. The proposal is likely to give rise to unacceptable adverse impacts on the amenity of those that live in the area however there were no concerns raised to me by the neighbours about any kind of unacceptable impacts on the amenity. There are no descriptions or specification of what kind of impacts that would be. It is 'likely' to give rise, but not for certain and there is no information on what those assumptions are based on.

There are several similar businesses operating without any unacceptable adverse impacts and I cannot understand why my business would be any different. My plan is to open pizza takeaway as there is not much space to prepare anything more than that therefore I do not think it would cause any unacceptable impacts on anybody, on the contrary it would create new workplace.

3. Reason number 2. is that it has been demonstrated that proposed hot food takeaway could operate from the premises in a manner that would not give rise to unacceptable odour and noise impacts to the occupants of the nearby residential property however report from Peak acoustic regarding noise impact stated otherwise (documentation attached) also recommended fan unit has been installed as instructed, ventilation system adjusted as recommended. No such concerns have been raised to me by neighbours. I do not think that preparing pizza would not give rise to unacceptable odour and noise impacts.

4. There was lack of communication during the application process from Fraser McKenzie who was responsible for my application in the first place. I wasn't informed that Kyle Donald took the responsibility for my application over and he also had issues with getting in touch with Mr McKenzie. During the whole process there was a lot of `negligence therefore I believe that the decision wasn't based on the facts and all the relevant information that might be crucial in outcome of the decision.

I would like the decision to be reviewed with all my concerns and arguments taken into consideration. I've invested a lot of money into this project and setting up a site to start promoting my business. I've used all my savings as I must keep paying rent for the property, got myself in areas with bills payments because there was no revenue coming for a long time as decision regarding planning permission application took way too long without any valid reason.

Thank you for taking your time for the review.

# **PEAK** acoustics

Noise Assessment Report

Email: sales@acousticsurveys.co.uk |Office: 0330 043 1764 Web: www.acousticsurveys.co.uk Peak Acoustics Ltd, Fernbank House, Springwood Way, Macclesfield, SK10 2XA



# **Noise Impact Assessment**

Report Reference Number: KD06052110NR

**Client:** Brian Toner

Site: 74 Marketgate, Arbroath, DD11 1AT

### **Project Consultant**

K. Donald, BSc (Hons) AMIOA Acoustic Consultant kyle@acousticsurveys.co.uk

### **Proofing Consultant**

N. Mitchell, BSc (Hons) Acoustic Consultant nick@acousticsurveys.co.uk



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# **Assessment Summary**

A Noise Impact Assessment has been undertaken for a change of use to provide a takeaway at 74 Marketgate, Arbroath, DD11 1AT.

The assessment includes considerations for a kitchen extraction system that is present at the rear of the property and internal sound transmission to first-floor habitable rooms directly above the premises.

The nearest or most-affected Noise Sensitive Receptor (NSR) for the assessment was identified as the existing residential apartment situated directly above the premises. The closest second floor window was considered as the reception point for the kitchen extraction assessment.

Calculated noise levels from the kitchen extraction system at the closest NSR window were indicated to be within Angus Councils criteria of NR35. No mitigation for the kitchen extraction system was deemed necessary.

Assumed details of the separating floor construction were provided and modelled in sound insulation modelling software, Insul (Marshall Day Acoustics). Calculated sound transmission levels to first-floor rooms were indicated to be within Angus Councils criteria of NR25. No enhancements or alterations to the ceiling are deemed necessary.

# 1. Introduction

- 1.1 A Noise Impact Assessment has been undertaken at 74 Marketgate, Arbroath, DD11 1AT in relation to a proposed change of use to provide a hot food takeaway and erection of external extraction equipment (retrospective).
- 1.2 The proposed hours of opening for the business are as follows:
  - Monday Thursday: 1100 2200
  - Friday Saturday: 1000 2300
  - *Sunday*: 1200 2200
- 1.3 The kitchen extraction system ducts at the rear of the premises and terminates at roof level. The exact make and model of the installed fan unit could not be identified. Worst-case assumed noise levels for the extraction fan have therefore been sourced for use in the assessment.
- 1.4 Details of the separating floor construction between ground and first floor have been provided by the applicant for the consideration of internal sound transmission to first floor habitable rooms.

### 2. Assessment Criteria

- 2.1 Peak Acoustics liaised with Environmental Health Officer, Martin Petrie, of Angus Council to determine criteria for the assessment. The following criteria were communicated.
  - Kitchen Extraction System Noise: NR35 (Daytime, 07:00 23:00), NR25 (Night-time, 23:00 07:00) at 1m from the nearest noise sensitive receptor.
  - Internal Sound Transmission: Noise from operations of the takeaway should not exceed NR25 in first-floor habitable rooms.

### 3. Noise Sensitive Receptors

- 3.1 The nearest or most-affected Noise Sensitive Receptor (NSR) has been identified as the first-floor residential flat directly above the proposed premises at 74 Marketgate.
- 3.2 For the assessment of the kitchen extraction system, the closest window of the second-floor property to the extraction flue will be considered as the specific reception point in calculations.

# 4. Site Description

4.1 74 Marketgate is located in the centre of Arbroath, on the East coast of Scotland. Adjacent and opposite the site are various other small commercial businesses which include a Dog groomers, Bank and Bar.

# 5. Site Location

5.1 The site location is shown in Figure 1 below.





• Kitchen Extract Flue Discharge (Approx.)
### **Kitchen Extraction Noise Assessment**

### 6. Source Noise Levels

- 6.1 The exact make and model of the installed fan unit could not be determined but the size was indicated to be approximately 200 250mm. As such, representative worst-case noise levels for a 350mm fan unit have been sourced for use in calculations.
- 6.2 The extract sound power levels (L<sub>wA</sub>) for the example fan unit are given below:

Source	LwA	63	125	250	500	1k	2k	4k	8k	dBA
Fan Unit Noise Levels (assumed)	LWA	68	68	60	57	58	58	53	47	64
				Table	2: Kitche	en Extrac	ction Sys	tem Sou	nd Powe	er levels

7. Kitchen Extraction – Assessment Outcome

- 7.1 Noise levels from the kitchen extraction system to the NSR location have been calculated whilst accounting for attenuation through the ductwork, end reflections, directivity, geometric divergence, and atmospheric absorption. Full calculations are provided in **Appendix A**.
- 7.2 The calculated levels at the nearest second-floor window of the NSR have been compared to the daytime NR35 criteria. As described in section 1.2, the business is to operate no later than 2300, assessment to night-time criteria is therefore not deemed applicable.

	63	125	250	500	1k	2k	4k	8k	dBA
Noise levels at NSR 2F Window	38	41	34	27	7	-3	-8	-25	30
NR35	63.1	52.4	44.5	38.9	35.0	32.0	29.8	28.0	
Difference, dB	-25	-11	-11	-12	-28	-35	-38	-53	

Table 3: Kitchen Extraction – Assessment Outcome

7.3 Table 3 demonstrates that noise from the kitchen extraction system at the nearest first-floor window are below the daytime NR35 criteria. No mitigation to reduce noise levels is deemed necessary.

### **Internal Sound Transmission Assessment**

### 8. Introduction and Criteria

- 8.1 Directly above the proposed take-away premises at first floor level is an existing residential apartment. To ensure internal noise associated with the takeaway use does not result in any loss of amenity for the first-floor occupants, an assessment of internal sound transmission is to be undertaken.
- 8.2 Environmental Health Officer for Angus Council, Martin Petrie, specified that noise levels in first-floor habitable rooms should be within the criteria of NR25.

### 9. Internal Noise Levels

9.1 The primary noise sources within the takeaway are likely to be from spoken voice from employees/customers and possible music from a small internal speaker system. Spectral data for typical low-level music have been sourced from Peak Acoustics library data. Noise levels for spoken voice have been sourced from 'ANSI 3.5-1997' - American National Standard – Methods for Calculation of the Speech Intelligibility Index (1997)'. Using these sources, a cumulative internal noise level for the use has been calculated whilst noting the small size of the premises. The assumed internal noise levels for the assessment are tabulated below.

Source	63	125	250	500	1k	2k	4k	dBA
Spoken Voice / Music	41	51	63	66	59	55	50	65

Table 4: Takeaway - Assumed Internal Noise Levels

### **10.** Floor/Ceiling Sound Insulation

- 10.1 Assumed details of the existing floor/ceiling construction have been provided by the applicant. The overall build-up is summarised below.
  - 25mm Timber floorboards
  - 200mm Timber joists at 400mm centre spacing
  - 100mm mineral wool insulation between joists (Assumed Low Density of 10kg/m<sup>3</sup>)
  - 2x No. 12.5mm Standard plasterboard

10.2 Sound insulation modelling software, *Insul (Marshall Day Acoustics),* has been utilised to provide a prediction of the sound insulation performance for use in internal sound transmission calculations, this is tabulated below.

Element		Sound Reduction Index (SRI)									
ciement	63	125	250	500	1k	2k	4k	dB			
Separating Floor/Ceiling	15	14	37	41	40	48	55	41			

Table 5: Separating Floor Sound Insulation Performance

10.3 A detailed sound insulation model is given in **Appendix B.** 

### **11. Internal Sound Transmission Outcome**

11.1 Internal sound transmission from the proposed takeaway unit to the first-floor habitable rooms directly above has been calculated using the noise levels given in Table 4 and the sound insulation performance given in Table 5. The predicted internal sound transmission is tabulated below.

Internal Space/Criteria	63	125	250	500	1k	2k	4k	dBA
Ground Floor Take-away (Source Room)	41	51	63	66	59	55	50	65
First-floor Habitable room (Receiver Room)	29	40	29	28	22	10	-2	29
NR25	55.2	43.7	35.2	29.2	25.0	21.9	19.5	-
Difference, dB	-26	-4	-6	-1	-3	-12	-20	-

Table 6: Internal Sound Transmission

- 11.2 Table 6 demonstrates that internal noise levels within first-floor habitable rooms are predicted to be within the criteria of NR25. No enhancements to the ceiling are deemed necessary.
- 11.3 Full calculations are given in Appendix A.

### **12. Conclusion**

- 12.1 A noise impact assessment has been undertaken at 74 Marketgate, Arbroath, DD11 1AT in relation to a change of use to provide a takeaway with an associated kitchen extraction system. The extraction system ducts and discharges at the rear of the property.
- 12.2 The assessment includes considerations for noise from the extraction flue and internal sound transmission through the separating floor.
- 12.3 The nearest or most-affected Noise Sensitive Receptor (NSR) was identified as the residential flat directly above the premises at first and second floor level.
- 12.4 An assessment of the kitchen extraction system indicated noise levels at the closest second floor window to be within NR35, achieving the criteria set by Angus Council.
- 12.5 Calculations of internal sound transmission indicated that noise levels in first-floor habitable rooms to be within NR25, achieving the criteria set by Angus Council.

### **APPENDIX A – Calculations**

#### Kitchen Extraction System 250 Fan Unit 63 125 500 1k 2k 4k 8k dBA Para. Example Noise levels for 355mm Fan 68 68 60 57 58 58 53 47 64 LwA Attenuator 0 0 0 0 0 0 0 0 Attenuation (dB/m Duct) 150mm -2.6 -2.6 -2.0 -1.4 -1.4 -1.4 -1.4 -1.4 End Reflections 150mm -8 -4 -1 0 0 0 0 0 Directivity Effect (120°) 150mm -2 -3 -6 -33 -43 -43 -12 -53 Distance Attenuation (ISO-9613) 2m -17 -17 -17 -17 -17 -17 -17 -17 Atmospheric Attenuation (ISO-9613) 0.0 0.0 0.0 0.0 0.0 0.0 0.0 -0.2 2m Sound Pressure Level at NSR 38 41 34 27 -8 -25 30 LpA 7 -3 NR35 63.1 52.4 44.5 38.9 35.0 32.0 29.8 28.0 Difference -53 -25 -11 -11 -12 -28 -35 -38

#### Internal Sound Transmission

Room to Room Sound Transmission Calculation

Description:

Calculation of internal sound trasmission from ground floor to first floor habitable rooms

1/1 Octave Centre-Freq. Band	Hz	<b>63</b>	125	250	500	1k	2k	4k	dBA
Take-away noise	dB	41	51	63	66	59	55	50	65
R1 Floor	R, dB	15	14	37	41	40	48	55	
R2	R, dB	0	0	0	0	0	0	0	
R3	R, dB	0	0	0	0	0	0	0	
Comp R	Rcomp, dB	-15	-14	-37	-41	-40	-48	-55	
Receiver Room Level	dB	29	40	29	28	22	10	-2	29



### **APPENDIX B – Sound Insulation Model**



### **APPENDIX C – Acoustic Terminology**

To aid the understanding of acoustic terminology and the relative difference between noise levels the following background information is provided.

We perceive sound when the ear detects fluctuations in air pressure (sound waves), which are then processed by the brain and perceived as sound. Humans can hear an incredibly wide range of sound intensities ranging from jet engines to fingertips lightly brushing against each other. This range is quantified using a logarithmic scale called the decibel scale (dB). The comfortable range of the decibel scale typically ranges from 0dB (the threshold of hearing) to around 140dB. Here are some examples common environments and their typical noise levels.

Noise Level	Environment				
0 dB(A)	Threshold of hearing				
20 to 30 dB(A)	Quiet bedroom at night				
30 to 40 dB(A)	Living room during the day				
40 to 50 dB(A)	Typical office				
50 to 60 dB(A)	Inside a moving car				
60 to 70 dB(A)	Typical high street				
100 to 110 dB(A)	Fire alarm at 1 metre away				
140 dB(A)	Threshold of pain				

#### Terminology

**dB (decibel)** – A unit used to quantify the pressure level of sound. Defined as 20 times the logarithm of the ratio between the root-mean-square pressure of a given sound field and a reference pressure level  $(2x10^{-5} Pa - \text{threshold of hearing})$ .

L<sub>Aeq,T</sub> – The equivalent continuous sound pressure level over a stated period. It quantifies a fluctuating sound level over a given period as the equivalent continuous sound level in which the same amount of acoustic energy is contained over. This is A-weighted in order to assess human perception.

 $L_{A90}$  – The sound level exceeded 90% of the time. Typically used to describe background noise the L<sub>90</sub> is regarded as the 'average minimum level' and quantifies the common sound level of a fluctuation sound field i.e. the sound level that occurs 90% of the time. Alternatively, L<sub>10</sub> describes the sound level exceeded 10% of the time and therefore quantifies the 'average maximum level' of sound which is often used during the calculation of road traffic noise.

**A-Weighting** – A standard weighting of the audible frequencies designed to reflect the response of the human ear to noise.

 $\mathbf{R}_{\mathbf{w}}$  — The Weighted Sound Reduction Index ( $\mathbf{R}_{\mathbf{w}}$ ) is a number used to rate the effectiveness of a soundproofing system or material.





### Let us introduce ourselves

Peak Acoustics formed in 2011, we are a fully accredited specialist consultancy and testing organisation.

We are a diverse team of Acoustic Consultants, Specialist Engineers and Building Compliance Technicians, with a network spanning the UK. We are proud to offer our services nationally, with no job too big or small.

We provide Acoustic Consultancy, Building Compliance Testing and Energy Services.

### Additional Services

We offer an extensive range of services in the sectors of Acoustic Consultancy, Building Compliance & Energy Efficiency. We are able to put together custom packages combining multiple services which saves both time and money for you.

#### **Building Compliance**

- Sound Insulation Testing
- Air Tightness Testing
- Ventilation Testing
- Water Efficiency Calculations
- Sound Insulation Specification

#### Energy Efficiency

- SAP Calculations
- EPC's
- SBEM Calculations
- Energy Statements
- Sustainability Statements
- MEES Regulations
- Commercial EPC's

#### Acoustic Consultancy

- Noise Assessment for planning conditions
- Construction site noise monitoring
- Noise at work assessments
- Noise & Vibration Impact Assessments

#### Peace of mind

We are accredited and registered by all the relevant major UK authorities to provide the services we offer. Peak Acoustics is UKAS accredited for sound insulation testing, ATTMA registered for Air Leakage Testing. and our Energy team are all Domestic On-Completion Energy Assessors.

#### Our Added Value

We combine our detailed knowledge of building regulations with our technical understanding of building physics, acoustics and environmental sciences to maximise development quality. Our work ensures appropriate strategies and studies are prepared to demonstrate to local authorities how proposed developments will be of high quality and generate acceptable impact on the surrounding environment.

### Contact Us

#### Head Office:

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Tel: 0330 043 1764 Email: <u>sales@acousticsurveys.co.uk</u> Website: acousticsurveys.co.uk

Opening hours Mon - Fri: 8:30 - 17:00



Title	Addendum to Report KD06052110NR
Peak Acoustics Ref.	KD06052110NR - ADD
Site	74 Marketgate, Arbroath, DD11 1AT
Date	20/08/2021
Author	K. Donald BSc (Hons) AMIOA

The addendum relates to planning application 20/00772/FULL - Proposed Hot Food Takeaway at 74 Marketgate, Arbroath and associated comments from Environmental Health Officer of Angus Council, Martin Petrie.

Comments were made that the "insulation between the properties is sub-standard". Assumptions for the floor/ceiling construction were made for the submitted report KD06052110NR.

It is therefore proposed to enhance the ceiling as follows:

- 25mm Timber floorboards
- 200mm Timber joists at 400mm centre spacing
- 100mm mineral wool insulation between joists (Assumed Low Density of 10kg/m<sup>3</sup>)
- 2x No. 12.5mm Standard plasterboard (Removed)
- Resilient bars installed perpendicular to the ceiling joists
- 2x No. 15mm Gyproc Soundbloc (or equivalently dense plasterboard)

Modelling of this proposed system in sound insulation modelling software, *Insul*, predicts the following performance. See **Appendix A** for a detailed model.

Element		Sound Reduction Index (SRI)								
	63	125	250	500	1k	2k	4k	dB		
Enhanced Separating Floor/Ceiling	25	39	47	51	58	59	69	56		

With implementation of these enhancements, the following internal sound transmission is predicted.

Internal Space/Criteria	63	125	250	500	1k	2k	4k	dBA
Ground Floor Take-away (Source Room)	41	51	63	66	59	55	50	65
First-floor Habitable room (Receiver Room)	19	15	19	18	4	-1	-16	16
NR15	47.3	35.0	25.9	19.4	15.0	11.7	9.3	-
Difference, dB	-28	-20	-7	-2	-11	-12	-9	-

With the enhanced ceiling construction, internal noise levels in the first-floor flat are predicted to be 16 dB with individual octave bands below the limits of NR15.

Further comments were made in relation to the kitchen extraction system. In report KD06052110NR, assumptions of the noise levels were made as the make/model of the fan unit could be determined.

Peak Acoustics recommends that an appropriate fan unit be installed that has accompanying manufacturer Sound Power Level (LwA) data which can then be used to perform a more accurate assessment of external noise emissions and allow the specification of appropriate mitigation (attenuators) accordingly.

Yours sincerely,

K. Donald BSc (Hons) AMIOA

**Acoustic Consultant** 

### Appendix A – Enhanced Floor Model



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**ITEM 4** 



Joanna Katarzyna Majkrzak <info@poradypl.com>

<b>kier199@wp.pl</b> <klakier199@wp.pl> info <info@poradypl.com></info@poradypl.com></klakier199@wp.pl>	Wed, Oct 6, 2021 at 4:32 PM
Dnia 6 października 2021 16:20 Kamil Zegarowski <	> napisał(a):
On Wed, 21 Oct 2020 at 11:24, Kamil Zegarowski < Perfect, no worries	> wrote:
On Wed, 21 Oct 2020 at 10:42, PetrieM <petriem@angus.gov.uk> wrot</petriem@angus.gov.uk>	te:
Yes 74 Marketgate, if there are any issues you can call me on 01307	7 491853
From: Kamil Zegarowski < Sent: 21 October 2020 10:40 To: PetrieM < PetrieM@angus.gov.uk> Subject: Re: Pizzeria Kamilo	
Have you got the address of the shop I take it yes?	
On Wed, 21 Oct 2020 at 10:30, PetrieM <petriem@angus.gov.uk> w</petriem@angus.gov.uk>	rote:
Ok I will see you there	
From: Kamil Zegarowski < Sent: 21 October 2020 10:28 To: PetrieM < <u>PetrieM@angus.gov.uk</u> > Subject: Re: Pizzeria Kamilo	
Yes today at 3 would be fine	
On Wed, 21 Oct 2020 at 10:26, PetrieM <petriem@angus.gov.uk> Today at 3?</petriem@angus.gov.uk>	> wrote:
From: Kamil Zegarowski < Sent: 21 October 2020 10:09 To: PetrieM < <u>PetrieM@angus.gov.uk</u> > Subject: Re: Pizzeria Kamilo	
I could meet you whenever, preferably just after 3 would be fine	

śr	21	paź 2020 c	0.09.00	PetrieM <	PetrieM@	)angus	dov uk>	napisał(	a).	•

When are you free?

From: Kamil Zegarowski < Sent: 20 October 2020 16:50 To: PetrieM <<u>PetrieM@angus.gov.uk</u>> Subject: Re: Pizzeria Kamilo

Okay I understand, The ventilation extracts through into the back of the shop so it shouldn't have an effect on the neighbours but yes that's fine would appreciate you coming out have a quick chat and look yourself, when would be best for you?

wt., 20 paź 2020 o 13:17 PetrieM <PetrieM@angus.gov.uk> napisał(a):

Hi Kamil

My understanding is last takeaway was operating without the required planning permission and was therefore not a legal use of the property.

In terms of a commercial kitchen, normally the ventilation system will extract at the roof to avoid odours escaping into neighbouring properties. If this is not the case, there is a likelihood that I will get complaints and have to take future enforcement action against the business.

I'm not really supposed to be doing any visits but can come out for a quick visit to explain it more fully if you like?

For your reference, this is the document we use to help decide on the level of extraction a kitchen requires, if you follow the risk assessment at the end, you can see the odour risk from this premises is very high due to the low level discharge.

Kind regards

Martin

From: Kamil Zegarowski < Sent: 20 October 2020 09:55 To: PetrieM <PetrieM@angus.gov.uk> Subject: Pizzeria Kamilo

Hi Martin, I have been contacting Fraser about trying to get my shop changed from a retail store to a takeaway and he has forwarded the message you have sent about the ventilation but I am a little confused as everything in the shop seems good and ready to go, also someone had the shop as a takeaway before us so the ventilation and all sorts should be fine due to the previous owner, Would it be easier if you maybe came down to the shop and explained further as i'm struggling to sort this over message and trying to open the shop as soon as possible especially with all of the covid problems it just slows everything down.

Cheers

From: Kyle Donald kyle@acousticsurveys.co.uk Subject: RE: Peak Acoustics - Noise Assessment Enquiry Date: 13 May 2021, 2:12:25 pm To: Brian Toner Cc: Ac Dept ac-dept@acousticsurveys.co.uk

## Hi Brian,

I was able to make contact with Martin Petrie of the Councils Environmental Health Service. He was able to confirm that the assessment should account for internal noise from customers and the kitchen extraction system.

Please find the quotation with our scope of works attached for the assessment at 74 Marketgate.

Please note that our current lead time to commence works is late May, early June. Once commenced, we would aim to have the report completed within 10 working days.

To undertake the assessment, we would need detailed information on the extraction system (Drawn plans of ductwork, fan model, silencers) and building construction (building plans, details of floor and wall constructions).

If you have any questions, please don't hesitate to ask.

### Kind Regards

### **Kyle Donald BSc (Hons) AMIOA** Acoustic Consultant **Peak Acoustics Ltd** Fernbank House, Springwood Way, Macclesfield, Cheshire, SK10 2XA, UK Peak Acoustics are a UKAS Accredited testing laboratory no. 8777 Switchboard: +44 (0)330 043 1764 Email: kyle@acousticsurveys.co.uk Website: http://www.acousticsurveys.co.uk/

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### <image001.png>

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### Kyle Donald BSc (Hons) AMIOA

Acoustic Consultant

**Peak Acoustics Ltd** 

Fernbank House, Springwood Way, Macclesfield, Cheshire, SK10 2XA, UK

Peak Acoustics are a UKAS Accredited testing laboratory no. 8777

Switchboard: +44 (0)330 043 1764 Email: kyle@acousticsurveys.co.uk

Website: http://www.acousticsurveys.co.uk/

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<image001.png>

Peak Acoustics Ltd is registered in England at Fernbank House, Springwood Way, Macclesfield, Cheshire, SK10 2XA, UK

### Registered number: 8351088

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From: Kyle Donald Sent: 06 May 2021 11:25 To: brian toner snr < Subject: RE: Peak Acoustics - Noise Assessment Enquiry

### Thanks Brian.



### Sent from the all-new AOL app for iOS

On Thursday, May 6, 2021, 10:56 am, Kyle Donald <<u>kyle@acousticsurveys.co.uk</u>> wrote:



### Thank you for your call earlier.

As discussed, please can you send over the details of the council members you have been speaking with along with any previous written communication you've had – mainly relating to the request of the noise assessment.

## If you could also include the following where applicable:

planning reference number (if you have one)
Full address of the site

Any questions let me know.



Kyle Donald BSc (Hons) AMIOA

Acoustic Consultant

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### **ITEM 5v**

### Kind Regards

Kyle Donald BSc (Hons) AMIOA Acoustic Consultant **Peak Acoustics Ltd** Fernbank House, Springwood Way, Macclesfield, Cheshire, SK10 2XA, UK Peak Acoustics are a UKAS Accredited testing laboratory no. 8777 Switchboard: +44 (0)330 043 1764 Email: kyle@acousticsurveys.co.uk

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From: brian toner snr < Sent: 06 May 2021 11:53 To: Kyle Donald <<u>kyle@acousticsurveys.co.uk</u>>;

## Subject: Re: Peak Acoustics - Noise Assessment Enquiry

I don't have his email sorry Kyle

## Sent from the all-new AOL app for iOS

On Thursday, May 6, 2021, 11:46 am, Kyle Donald <<u>kyle@acousticsurveys.co.uk</u>> wrote:

Hi Brian,

# My colleague Alice let me know that you have changed email address. Not sure if you got my previous response below regarding Fraser McKenzie's email?

From: Brian Toner Sent: 10 May 2021 13:53 To: Kyle Donald <u><kyle@acousticsurveys.co.uk></u> Subject: Re: Peak Acoustics - Noise Assessment Enquiry

Cheers Kyle thank you very much bye

Sent from my iPhone

On 10 May 2021, at 13:00, Kyle Donald <<u>kyle@acousticsurveys.co.uk></u> wrote:

### Hi Brian,

I tried calling again this morning but wasn't able to get through to Fraser as he was in meeting. I was able to get his email address so I've written and sent him an email.

I'll let you know when I get a response.

### **Kind Regards**

### Kyle Donald BSc (Hons) AMIOA

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## From: Kyle Donald Sent: 07 May 2021 13:24



Subject: RE: Peak Acoustics - Noise Assessment Enquiry

## Hi Brian,

To:

I've tried calling the council but wasn't able to get through. I'll keep trying when I can but I'm unfortunately very busy at the moment so if you're able to get Fraser McKenzie's email this would be helpful.

## Kind Regards

Kyle Donald BSc (Hons) AMIOA Acoustic Consultant Peak Acoustics Ltd Fernbank House, Springwood Way, Macclesfield, Cheshire, SK10 2XA, UK Peak Acoustics are a UKAS Accredited testing laboratory no. 8777 Switchboard: +44 (0)330 043 1764 Email: kyle@acousticsurveys.co.uk

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From: Kyle Donald Sent: 06 May 2021 12:28 To: brian toner snr < Subject: RE: Peak Acoustics - Noise Assessment Enquiry

Hi Brian,

No problem, I'll try calling when I can.

**ITEM 5viii** 

# Do you happen to have Fraser McKenzie's email by chance?

Kind Regards

Kyle Donald BSc (Hons) AMIOA

### Acoustic Consultant

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From: brian toner snr < Sent: 06 May 2021 11:02 To: Kyle Donald <<u>kyle@acousticsurveys.co.uk</u>> Subject: Re: Peak Acoustics - Noise Assessment Enquiry

Angus Council planning department Fraser McKenzie property at 74 Marketgate Arbroath Angus DD11 1AT Council number 03452777778

**ITEM 6i** 

Hi, I'm not sure if your aware but we were planning on opening up a pizza shop down below but the planning authority have told us that we are not able to do so without the neighbours approval. I popped by yesterday to have a chat but no one was home. I can also offer a free pizza every week. If you do gree to approve could you just write below. Your name  $K_{M} = Wilson$ 

House number 76A Thanks.

Welsome



Hi, I'm not sure if your aware but we were planning on opening up a pizza shop down below but the planning authority have told us that we are not able to do so without the neighbours approval. I popped by yesterday to have a chat but no one was home. I can also offer a free pizza every week. If you do agree to approve could you just write below. Your name WMME CARGILL







Hi, I'm not sure if your aware but we were planning on opening up a pizza shop down below but the planning authority have told us that we are not able to do so without the neighbours approval. I popped by yesterday to have a chat but no one was home. I can also offer a free pizza every week. If you do agree to approve could you just write below. Your name Signature House number 76 C





Hi, I'm not sure if your aware but we were planning on opening up a pizza shop down below but the planning authority have told us that we are not able to do so without the neighbours approval. I popped by yesterday to have a chat but no one was home. I can also offer a free pizza every week. If you do agree to approve could you just write below. Your name Signature House number Thanks.

Hi SULLESTER, MORE THON HAPPRI TO WALCOME ANOTHOR NON BUSINESS TO THE AROA MAYBE TRY & COME UP WITH A had CALCRUE OFTIGN FOR THE CIMM CLIENTS! BEST of Luck, SIMONE LAVORY-ROSS ROISE THE BOR AT & 78 MORKET COTE) 8000

**ITEM 6v** 

# Pizzeria Kamilo

Hi. I'm not sure if your aware but vere planning on opening up a pizza

shop next door but the planning authority have told us we are not able to do so without the neighbours approval. I can also offer a free pizza every week. If you do agree to approve could you just write below.

# Your name Signature House number 72 Thanks.

