

KEY INFORMATION**Ward** Law**Proposal**

Change of use of land and existing buildings to hotel and ancillary accommodation, car parking, theme restaurant/bars and leisure uses

Address

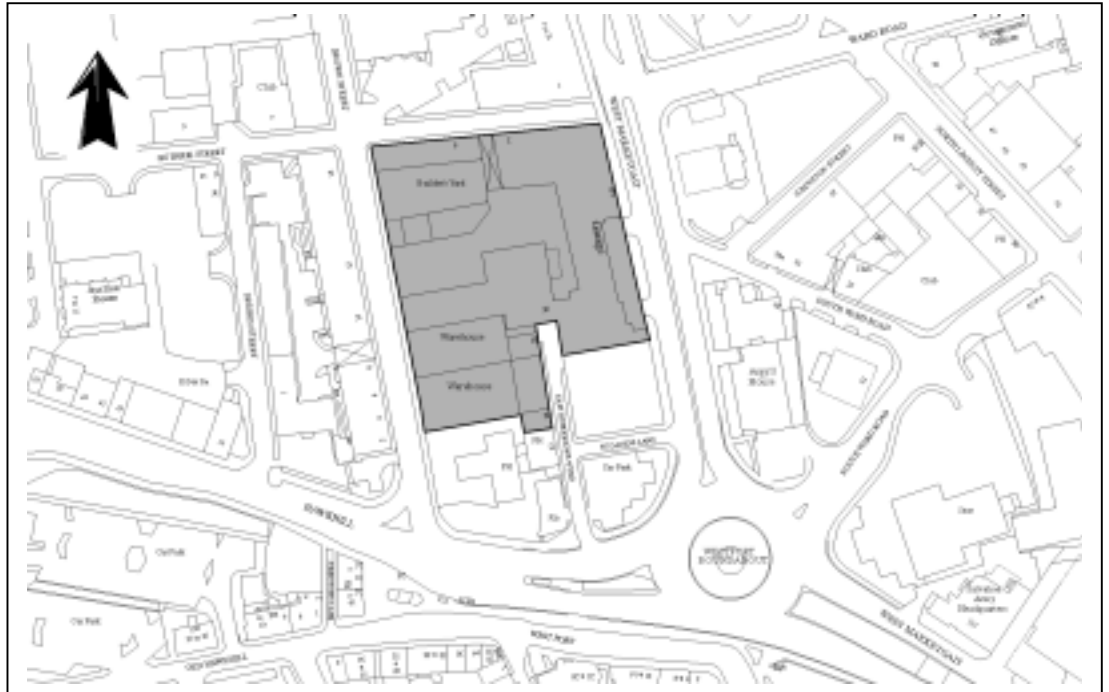
Land East of Brown Street,
South of Guthrie Street &
West of West Marketgait
Dundee

Applicant

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Registered 5 June 2002**Case Officer** D Gordon

Proposed Change of Use to Hotel in West Marketgait

The change of use of land and existing buildings to hotel and ancillary accommodation, car parking, theme restaurant/bars and leisure uses is **RECOMMENDED FOR APPROVAL** subject to conditions.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposal represents an opportunity for a significant sustainable development in a prominent frontage location within a conservation area that will enhance the vibrancy and atmosphere of the local area in accordance with the Council's aspirations for the emerging Cultural Quarter.

The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Permission is sought to change the use of buildings and land to a licensed hotel, 3no. bars / restaurants, a fitness suite and associated car parking. No design details of the proposed development have been submitted for consideration at this time.
- The site is located within the Blackness Conservation Area and contains several Category B Listed buildings. The site occupies a prominent location on the West Marketgait frontage.
- The proposed use is in accordance with the key land use policies of the development plan and the Finalised Local Plan Review. The development is also in accordance with the Council's aspirations for the emerging Cultural Quarter.
- An objection to the proposed development has been submitted on behalf of flatted properties located to the west of the application site. This objection raises issues of the potential impact of the proposal on the environmental quality of the area due to an increase in noisy activities associated with the development. The applicants for consideration have submitted a Noise Impact Assessment relating to the activities of the proposed development.
- It is considered that the proposed change of use provides an opportunity for a sustainable development that is in accordance with the aspirations of the Council for this area.

DESCRIPTION OF PROPOSAL

The proposal involves consideration of an application to change the use of land and buildings to a licensed hotel, 3no. bar/restaurants, a fitness suite and associated car parking.

No details of the floor layouts of the proposed new uses have been submitted for consideration at this time.

SITE DESCRIPTION

The application site is bounded by West Marketgait to the east, Guthrie Street to the north and Brown Street to the west. To the south there is the vacant site of a former nightclub (Coconut Grove) and public houses (The West Port Bar and The Doghouse). The site is also bounded by existing residential property to both the north and west that has been formed from mill buildings. Land to the east is occupied by car parking, a petrol filling station and commercial office buildings.

The former and current uses of the application site incorporate car showrooms and vehicle workshops, builders yard and workshop areas, extensive car parking areas, petrol filling station, general industrial uses, university and student association facilities within the upper floor levels of the former mill building.

The Category A listed building located immediately to the north (Tay Works) incorporates retail floorspace and a mixture of small business uses at ground floor level and student accommodation within the upper floors. The Category A listed building located to the west of the application site (South Mills) has been converted into mainstream housing and is separated from the site by Brown Street and existing high walls of varying heights (4 - 5 metres) built along the western boundary of the application site.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Environmental Resources Policy 5A: Historic Environment. This policy seeks the provision of a framework to safeguard and enhance important features of the areas historic environment as a means of conserving the diverse and distinctive qualities of Dundee.

Town Centres and Retailing Policy 5: Leisure and Commercial Uses. This policy promotes a sequential approach to site selection for leisure and



commercial uses capable of contributing to the vitality and viability of the city

Employment Policy 5: Leisure and Tourism. Support is offered for proposals that contribute to the sensitive development of the range and quality of tourism and visitor attractions, including inter alia 3 or 4 star hotels with conference and banqueting facilities in the City Centre.

Dundee Local Plan 1998

The following policies are of relevance:

Policy EU19 - The Local Authority will encourage appropriate business and research developments and supporting uses associated with Higher Educational Institutions in "campus" locations.

Policy H1 - Within areas where residential use predominates, developments will be permitted where they do not adversely affect the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues

and they are in accordance with the policies and proposals found elsewhere in the Plan.

Policy LT5 - The Council will encourage the provision of a wider range of accommodation for visitors to the city having regard to the other policies of the Local Plan.

Policy LT8 - No licensed premises other than off licences or possibly hotels with a restricted licence and no premises selling hot food is acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150 sq.m. floorspace and within 45 metres if the 150 sq.m. figure is exceeded.

Policy BE11 - Within Conservation Areas all developments will be expected to complement and enhance the character of the surrounding area.

Policy BE15 - Suitable alternative uses will be encouraged for buildings considered to be of architectural merit or townscape value where it is necessary in order to secure the future of the buildings having regard to other relevant policies in the Local Plan.

Policy BE17 - The alteration of a listed building, or a building in a conservation area will only be acceptable where the proposals have regard to the restoration or enhancement if its architectural and historic character.

Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application

Finalised Local Plan Review

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities. This policy promotes the development of an appropriate range of services facilities close to and within housing area. Such new developments should seek to minimise the effect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues noise and smell.

Policy 17: Cultural Quarter - Within the Cultural Quarter uses and

developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged. Proposals that would extend and improve the areas representation of small scale independent and speciality retailers will also be encouraged. Proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses to their potential to enhance its visitor attraction.

Policy 28: Higher Education Development. - The Council will support further higher education development generally and particularly in association with relevant business and research expansion

Policy 30: Visitor Accommodation. - The Council will support the provision of a range of high quality visitor accommodation and conference facilities in and close to the city centre, where they are consistent with the Central Waterfront Masterplan. There will be presumption against additional hotel accommodation on or close to major routes through the City.

Policy 52: Restraint on Licensed Premises in the City Centre - Within the City Centre care will be taken to avoid an excessive concentration of public houses and night-clubs, particularly those in close proximity to residential areas. As such there will be presumption against the establishment of licensed premises (excluding restaurants) in the City Centre:

- a with a total floor area in excess of 300 square metres; or
- b any more than one in five units in a single frontage where the combined floor area is in excess of 300 square metres.

This restraint will not apply in the Cultural Quarter.

Policy 59: Alternative Uses for Listed Buildings - Suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric must be undertaken carefully and sensitively and have a minimum impact on the architecture and historic interest, character and setting of the building.

Policy 60: Alterations to Listed Buildings The alteration of a listed building will only be acceptable where

the proposals have regard to the preservation or enhancement of its architectural or historic character. Alterations will not be permitted where the works would diminish the architectural integrity of the building or its historic interest.

Policy 61: Development in Conservation Areas - Within conservation areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features that contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features and the historic pattern of streets, as identified in the Conservation Area management plans.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

NPPG8 (revised 1998) - Town Centres and Retailing. This sets out the Government's policy for town centres and retail developments. It also addresses other non-retailing uses that have a role to play in contributing to the economic health and enhancement of the town centre.

NPPG18 - Planning and the Historic Environment. This policy outlines national policy on the historic environment which local authorities should consider in formulating and assessing development proposals.

PAN33 (revised 2000) - Development of Contaminated Land. This Planning Advice Note provides advice on a number of issues including the determination of planning applications when the site is or may be contaminated.

PAN56 - Planning and Noise - This Planning Advice Note indicates how noise issues should be handled in development plans and development control, provides specific guidance on noisy and noise sensitive developments and gives guidance on the use of planning conditions relating to noise.

The Memorandum on Listed Buildings and Conservation Areas 1998

This document by Historic Scotland offers advice on the consideration of developments involving listed buildings and conservation areas.

Non Statutory Statements of Council Policy

The following policy statements are of relevance:

The "Dundee Cultural Quarter, Development and Investment Strategy" prepared on behalf of the Dundee partnership developed a broad framework to establish a cultural quarter. As part of Report No. 329/2001 the council approved the concept of a "Cultural Quarter" in the west end of the city centre focussed on South Tay Street and key developments such as the Rep Theatre and the Dundee Arts Centre. Within this area, uses that enhance the vibrancy and atmosphere of the area such as venues, bars, cafes, restaurants and specialist shops will be encouraged.

LOCAL AGENDA 21

It is considered that the proposed development is in conformity with the Council's Local Agenda 21 Policies because it retains and re-uses listed buildings of significant architectural character on a brown field site which are located within a conservation area.

SITE HISTORY

The site and the surrounding area has been the subject of several planning applications in recent years.

PUBLIC PARTICIPATION

The applicants have undertaken the statutory neighbour notification procedure. In addition, the proposal was advertised in the local press under Section 34 of the 1997 Act (bad neighbour development) and as a development potentially contrary to the Development Plan (Policies EU19 and LT8).

An objection to the proposal has been received from Home in Scotland who are Landlords of 40 flats for rent at

South Mills located to the west of the application site. The main issues raised in their objection relate to the potential noise nuisance generated by the proposed new uses, noise disturbance from patrons leaving the premises late at night and early morning and the pressure of car parking in the local area.

Comments on the various issues raised above can be found in 'Observations' below.

CONSULTATIONS

The relevant Council Departments and outside bodies have been consulted with regard to the proposed development.

The Council's Director of Environmental and Consumer Protection has offered comments on the Noise Impact Assessment that has been submitted for consideration under the requirements of Planning Advice Note 56 above. This matter will be discussed more fully in 'Observations' below.

No other adverse comments have been received to the proposals.

OBSERVATIONS

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

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

Dundee and Angus Structure Plan 2001 - 2016

Environmental Resource Policy 5A: Historic Environment. This policy seeks to promote the enhancement of important features of the areas historic environment. The application is for a change of use only at this stage and no design details of the hotel and the associated uses have been submitted

for consideration. However, the every care will be taken during the consideration of any future planning or listed building applications for the development of the site to ensure that the historic features and characteristics of the area are protected and enhanced. The proposal is not considered to be contrary to this policy.

Town Centres and Retailing Policy 5: Leisure and Commercial Uses. In addition to their retail function, successful city centres offer a range of attractions and facilities that interact to present a vibrant and positive image and underpin the overall viability of the centre. These include commercial, leisure and entertainment uses (such as cinemas and theatres), tourist provision, offices and higher educational establishments, each of which might expect to draw significant numbers of visitors. The accessibility advantages of the city centre means that its facilities are more readily available to the community as whole than those in less central locations. There are therefore advantages in promoting city centres as the locations of first choice for certain key uses. The provision of a hotel, bar/restaurants and a fitness suite within the proposed city centre location would fulfil the aspirations of this policy. Consequently, the proposal is considered to be in accordance with Policy 5.

Employment Policy 5: Leisure and Tourism. This policy supports proposals that contribute to the range and quality of tourism and visitor attractions including inter alia 3 or 4 star hotels with conference and banqueting facilities in the city centre. As advised above, the application does contain any specific details of the development at this time. However, the principle of the provision of a hotel in this city centre location is in general accordance with the aspirations of the policy.

Dundee Local Plan 1998

Policy EU19 - The proposal was advertised as being potentially contrary to this policy in the local press. No objections on this particular issue have been submitted to the Council. The main thrust of this policy is to offer support and encouragement for developments associated with higher educational establishments. However, this does not preclude or indeed

discourage other forms of appropriate developments within these campus areas providing they are in accordance with the relevant policies and proposals of the development plan. It is clear that the proposal is not associated with a higher educational institution and indeed one of the Universities have recently advertised for sale (Sept.2002) the first and second floors of one of the properties the subject of this planning application. The proposed use is not considered to be contrary to Policy EU19 by virtue of the development being appropriate for the area and also in accordance with other relevant land use policies in the Plan.

Policy H1 - The protection of the environmental quality of local residents. The mill building located to the north (Tay Works) incorporates a number of mixed uses including student accommodation within the upper floors. In addition, the mill building to the west (South Mills) has been converted into mainstream housing accommodation and is separated from the site by Brown Street and existing walls of varying height (4-5 metres) built along the western boundary of the application site. The applicants acknowledged that there was a genuine concern that the proposed development may introduce several new noise sources into the local area and for this reason the originally proposed function suite was omitted from the application details now under consideration.

In accordance with the requirements of Planning Advice Note 56, specialist acoustic consultants were commissioned by the applicants to carry out a Noise Impact Assessment relative to the proposed development. The NIA concludes that it is anticipated that whilst sporadic noise from activities at the development site may be heard on occasions, the magnitude of these impacts will be small and consequently, the significance of effects negligible. The Council's Director of Environmental and Consumer Protection has advised that he is satisfied with the consultants' recommendations. He has suggested conditions that should be attached to any permission granted which requires that amplified music from all sources shall be inaudible within the nearest residential accommodation and that

total noise from all mechanical/electrical shall not exceed NR35 as measured 1m external to the façade of the nearest affected residential accommodation.

In light of the above, it is considered that the environmental quality of the local residents will not be adversely affected if these mitigating conditions are agreed.

Policy LT5 - This policy encourages the provision of a wider range of accommodation for visitors to the city. The principle of the proposal ie the provision of a hotel and associated facilities, is in accordance with the requirements of this policy.

Policy LT8 - This policy requires that new licensed premises and premises selling hot food should be located a minimum distance from existing or proposed residential accommodation depending on the floorspace of the new facility. In this instance it is recommended that a minimum of 45 metres distance from the nearest residential properties be achieved. The student accommodation located to the north of the site is within this required distance. The mainstream housing located to the west is located some 55m - 65m distant. The proposal is therefore contrary to Policy LT8 of the Plan.

This issue is discussed further in the consideration of Policy 17 and Policy 52 of the Finalised Local Plan Review below. The terms of these policies offer support to the provision of such facilities in this location.

Policies BE11, BE15 and BE17 advise on developments that relate to the re-use and alterations to listed building and developments within conservation areas. The application is for a change of use only at this stage and no design details have been submitted for consideration. Consequently, full determination of the application, as it relates to these policies, cannot be made at this time. Further planning and listed building applications will be required to be submitted to this Council should the applicants wish to progress this proposed development. It will be appropriate at that time to consider the proposed detailed design of the development against the requirements of these policies which aim to protect the historical character of listed buildings and the setting of the surrounding conservation area.

However, the development proposals represent a significant opportunity to assist the sustained retention of traditional features within the application site that will continue to complement and enhance the character of the surrounding area.

It is concluded from the foregoing that the proposal does not fully comply with the provisions of the development plan.

Other Material Considerations

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

National Planning Policy Guideline 8 (revised 1998) - Town Centres and Retailing. This Policy encourages uses, in addition to retail, that contribute to the economic health, character and overall attraction of city centres. Encouragement is given, on appropriate city centre sites, to uses which need to be accessible to large numbers of people, for example, commercial, leisure and entertainment, offices higher education and tourism. It is considered that the proposal conforms to the requirements of the Policy to locate such uses within town centres.

National Planning Policy Guideline 18 - Planning and then Historic Environment. The proposal represents a significant opportunity to assist the sustained retention of listed building located on a prominent frontage site within a conservation area. The design details of the development will require to form part of future applications for planning and listed building permission that will in turn require to demonstrate compliance with the procedures and advice offered in this Policy.

Memorandum of Guidance on Listed Buildings and Conservation Areas (issued by Historic Scotland 1998)

This document reflects the advice offered in NPPG 18 above. The future development of the site will require to comply with the advice offered by Historic Scotland due to the listed status of several of the buildings within the site and the surrounding conservation area.

The "Dundee Cultural Quarter, Development and Investment

Strategy". This document, prepared on behalf of the Dundee Partnership, provides the framework establishing a cultural quarter area focussed on the South Tay Street area but including the application site under consideration. This document confirms the acceptability of the proposal to establish bars, restaurant, hotels etc in this area in order to enhance the vibrancy and atmosphere.

Finalised Local Plan Review

Policy 1: Vibrant and Sustainable Communities. The general terms of this policy reflects Policy H1 of the Dundee Local Plan as discussed above. It is concluded that the proposal is in accordance with this draft policy.

Policy 17: Cultural Quarter. Within the Cultural Quarter uses and developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged. The introduction of such visitor accommodation, bar and restaurant uses within this area will comply with the aspirations of the Quarter to enhance the vibrancy and atmosphere of the area, particularly on this prominent site on the West Marketgait frontage.

Policy 28: Higher Education Development. The terms of this policy is reflected in Policy EU19 of the Dundee Local Plan above. It is concluded that the proposal is in accordance with the requirements of this draft policy.

Policy 30: Visitor Accommodation. The terms of this policy is reflected, in part, in Policy LT15 of the Dundee Local Plan 1998 above. It is vital that the City provides a range of accommodation to meet the needs of tourists and business visitors. This is particularly important in the more central areas of Dundee where the potential exists to achieve greatest economic benefit from visitors to the City in terms of shops, restaurants and other visitor facilities and attractions. As such encouragement is given to the provision of new accommodation in and close to the city centre including high star-rating hotels with conference and leisure facilities, budget accommodation and youth hostels.

Policy 52: Restraint on Licensed Premises in the City Centre. This policy seeks to avoid excessive

concentration of public houses and nightclubs in the city centre particularly in close proximity to residential property. This presumption against the establishment of licensed premises does not apply in the Cultural Quarter. Consequently, the proposal is not considered to be contrary to this draft policy.

The terms and requirements of Policy 59: Alternative Uses for Listed Buildings, Policy 60: Alterations to Listed Buildings and Policy 61: Development in Conservation Areas are all reflected in Policies BE11, BE15 and BE15 of the Dundee Local Plan 1998 above. It is concluded that the development is not contrary to this draft policy.

The applicants agents have submitted a reasoned justification for the proposed development, a copy of which can be viewed in the Members Lounges. The justification is relevant, comprehensive and covers in detail many of the principle issues that have been raised above.

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

Design

The application is for a change of use only at this stage and no design details have been submitted for consideration. Should the application be approved it will be necessary to progress the development by the submission of planning and listed building applications to this Council for consideration. The design issues will be fully determined at that time taking account of the relevant policies and guidance relating to such proposals.

CONCLUSION

The proposal represents a significant opportunity to assist the sustained retention of listed buildings on a prominent frontage location within a conservation area. The proposed use complies with the draft policies of the Finalised Draft Local Plan and the concept is in accordance with the aspirations of the emerging Cultural Quarter which seeks to enhance the

vibrancy and atmosphere of the local area.

RECOMMENDATION

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

- 1 The development hereby permitted shall be commenced within five years from the date of this permission
- 2 The development shall not commence until details of access into and egress from the site, off street car parking facilities, servicing arrangements and landscaping have been submitted to and approved in writing by the planning authority.
- 3 The development shall not commence until details of the floorplan layouts of the proposed licensed hotel, theme bar restaurants and fitness suite have been submitted to and approved in writing by the planning authority.
- 4 All amplified music or vocals from the premises hereby granted permission shall be so controlled as to be inaudible within the nearest residential accommodation
- 5 The development shall not commence until a scheme for the insulation for the premises, or other acceptable method, for the uses hereby granted permission (to achieve the requirements of condition 4 above) has been submitted to and approved in writing by the planning authority; all works which form part of the approved scheme shall be completed to the satisfaction of the planning authority before the uses commence.
- 6 The development shall not commence until a scheme for the noise attenuation of the ventilation/extraction system or other mechanical services to be installed in the premises hereby granted permission has been submitted to and approved in writing by the planning authority; all works which form part of the approved scheme shall be completed to the satisfaction of the planning authority before the

uses commence. For the avoidance of doubt the total noise from all mechanical/electrical services shall not exceed NR35 as measured 1metre external to the facade of the nearest affected residential accommodation.

- 7 The use of external waste bins and bottle bins within the site shall not be permitted after 2300hrs.
- 8 Development shall not begin until a scheme to deal with potential contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:
 - a the nature, extent and type(s) of contamination on the site
 - b measures to treat/ remove contamination to ensure the site is fit for the use proposed
 - c measures to deal with contamination during construction works
 - d condition of the site on completion of decontamination measures

Before any of the units hereby granted permission is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority

Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 In order to ensure the safe and free flow of traffic in the area, to ensure the provision of adequate off street car parking spaces within the curtilage of the application site and to ensure that the external appearance of the site is of a quality appropriate for the area.
- 3 In order to ensure that the proposed uses will not have a detrimental impact on both the internal and external character of the buildings the subject of this approval.

- 4 In order to safeguard the amenity of nearby residents and other occupiers
- 5 In order to safeguard the amenity of nearby residents and other occupiers
- 6 In order to safeguard the amenity of nearby residents and other occupiers
- 7 In order to safeguard the amenity of nearby residents and other occupiers
- 8 In order to ensure that the site is fit for the use proposed