

**KEY INFORMATION**

**Ward** Broughty Ferry

**Proposal**

Change of use and extension to first floor flat to form tearoom linked to fish and chip shop

**Address**

23 Gray Street  
Broughty Ferry  
Dundee  
DD5 2BH

**Applicant**

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**Agent**

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**Registered** 28 June 2002

**Case Officer** C Walker



# Tearoom Extension Proposed to Fish and Chip Shop in Gray Street

Change of use of and extension to first floor flat to form tea room linked to fish and chip shop is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation

**RECOMMENDATION**

It is considered that the development will not have a significant impact on residential amenity taking into account the nature and character of the proposed business and the character of the surrounding area and that there is a justification for departing from the terms of Policy LT8. The application is therefore recommended for APPROVAL with conditions.

**SUMMARY OF REPORT**

- Planning permission is sought to change the use of and extend this upper floor flat to form a tea-room linked to the ground floor fish and chip shop.
- Policy LT8 of the Local Plan states that restaurants and licensed premises of this size should not be located within 30 metres of houses. This policy is contravened and the application was advertised as contravening the Plan. The site is within a mixed use area defined by Policy EU27 where there is a presumption in favour of retaining non residential uses, subject to amenity and the provision of the appropriate level of parking.
- Statutory neighbour notification was carried out and the proposal was advertised as a bad neighbour development and as contravening Policy LT8 of the Local Plan. No public comment was received.
- The Director of Environmental and Consumer Protection has not raised any concerns about the proposed development.

## DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of and extend this upper floor flat to form a tea-room linked to the ground floor fish and chip shop. The extension has a plan area of some 11 sq. metres and is above a flat roof extension to the rear of the fish and chip shop. A minor elevational alteration is proposed to the shopfront to widen the entrance to the upper floor tea-room.

It is proposed to operate the tea-room in conjunction with the ground floor fish and chip shop selling food prepared downstairs. The tea-room has a capacity for 20 people and the proposed hours of operation are from 9am to 10pm.

## SITE DESCRIPTION

The site is a vacant upper floor flat above a fish and chip shop. The remainder of this 2 storey corner building is occupied by the Ferry Inn public house. The adjoining building to the south is a one and a half storey house. To the east, on the opposite side of Gray Street is a residential home.

## POLICY BACKGROUND

### Local Plan 1998

The following policies in the adopted Local Plan are of relevance:

- 1 The site is within a mixed use area defined by Policy EU27 where there is a presumption in favour of retaining non residential uses, subject to amenity and the provision of the appropriate level of parking.
- 2 Policy LT8 states that restaurants and licensed premises of this size should not be located within 30 metres of houses. This policy is contravened and the application was advertised as contravening the Plan. In June 1998 the Planning and Transportation Committee reviewed Policy LT8 to the effect that the requirement for amenity distances from housing should be relaxed in District Centres.

## LOCAL AGENDA 21

The Council's Agenda 21 policies seek to ensure that opportunities for leisure and recreation are available to all but also that health is protected by creating safe, clean and pleasant environments. It is not considered that the proposed development will adversely impact upon the Council's Agenda 21 Policies.

## SITE HISTORY

There is no relevant history of planning applications pertaining to this site.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposal was advertised as a bad neighbour development and as contravening Policy LT8 of the Local Plan. No public comment was received.



## CONSULTATIONS

The Director of Environmental and Consumer Protection has not raised any concerns about the proposed development.

## OBSERVATIONS

The determining issue for the Committee in this instance is whether there are material considerations which would justify the approval of the development contrary to Policy LT8 and taking into account Policy EU27 of the adopted Local Plan having particular regard to any potential detriment to residential amenity as a result of the approval of the application.

Policy LT8 clearly contains a presumption against the proposed development. Although the preamble to the Policy states that in the District Shopping Centres these standards may be relaxed and the Committee has recently approved modifications to Policy LT8 to allow a relaxation of the distance rule in District Centres, the application site falls just outwith the District Centre of Broughty Ferry.

Policy EU27 contains a presumption in favour of non residential uses on this site. However the Policy adds that any such non residential uses should not adversely affect residential amenity. The amenity test in Policy EU27 is less onerous than that of LT8.

In the particular circumstances of this case it is considered that there are material considerations which would justify the approval of this application contrary to Policy LT8. These are:

- 1 The proposed development is linked to an existing hot food takeaway, with patrons being served food cooked on the downstairs premises. The proposed development does not propose any expansion of cooking facilities, caters for only 20 patrons and is unlikely to generate significant additional activity in the vicinity of the site. Indeed the use may well have amenity benefits with patrons choosing to eat in rather than immediately outside the premises.
- 2 The adjoining premises to the north are a public house and the entrance to the tea room will be beside the public house.
- 3 The use of the premises will cease at 10pm.
- 4 Despite neighbour notification and 2 advertisements no objections were received.

In these circumstances it is considered that the proposed development is acceptable despite the fact that it contravenes Policy LT8. Should Members agree with this then conditions can be imposed to restrict the nature and scale of the proposed use.

Policy EU27 is supportive of non residential uses at this location subject to amenity and parking provision. The amenity issue has already been considered in the context of Policy

LT8. In terms of car parking there is no provision, either existing or proposed, at this location. The former Tayside Regional Council standards (referred to in Policy EU27) set out requirements for restaurants. However, within central areas such as the centre of Broughty Ferry, the practice has been not to insist on parking for commercial developments but to accept that nearby car parks could be utilised. In this case the proposed development is unlikely to generate a significant amount of traffic (it has a capacity for 20 patrons), and in any event it is not considered that there should be a requirement for dedicated parking for this development. This is the case with almost all similar premises in central Broughty Ferry.

## Design

The minor elevational alterations to widen the entrance door and to form the small rear extension do not raise any design issues.

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## CONCLUSION

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It is considered that the development will not have a significant impact on residential amenity taking into account the nature and character of the proposed business and the character of the surrounding area. It is therefore considered that there is a justification for departing from the terms of Policy LT8.

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## RECOMMENDATION

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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 proposed tearoom shall operate only in conjunction with and ancillary to the ground floor hot food takeaway and not as a separate entity
- 3 No use shall be made of the premises before 9 am or after 10 pm on any day
- 4 No cooking of food shall take place within the upper floor tearoom area

## Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To limit the nature and scale of the development in the interests of residential amenity
- 3 The uses are closely adjoined by residential properties and the Council considers it necessary to strictly control the nature and intensity of the use in the interests of the amenities of the area
- 4 To limit the nature and scale of the proposed development in the interests of residential amenity