

KEY INFORMATION

Ward Tay Bridges

Proposal

Part use of vacant ground floor and basement retail (Class 1) premises as Public House and first floor residential accommodation.

Address

3-5 Whitehall Street
DUNDEE
DD1 4AA

Applicant

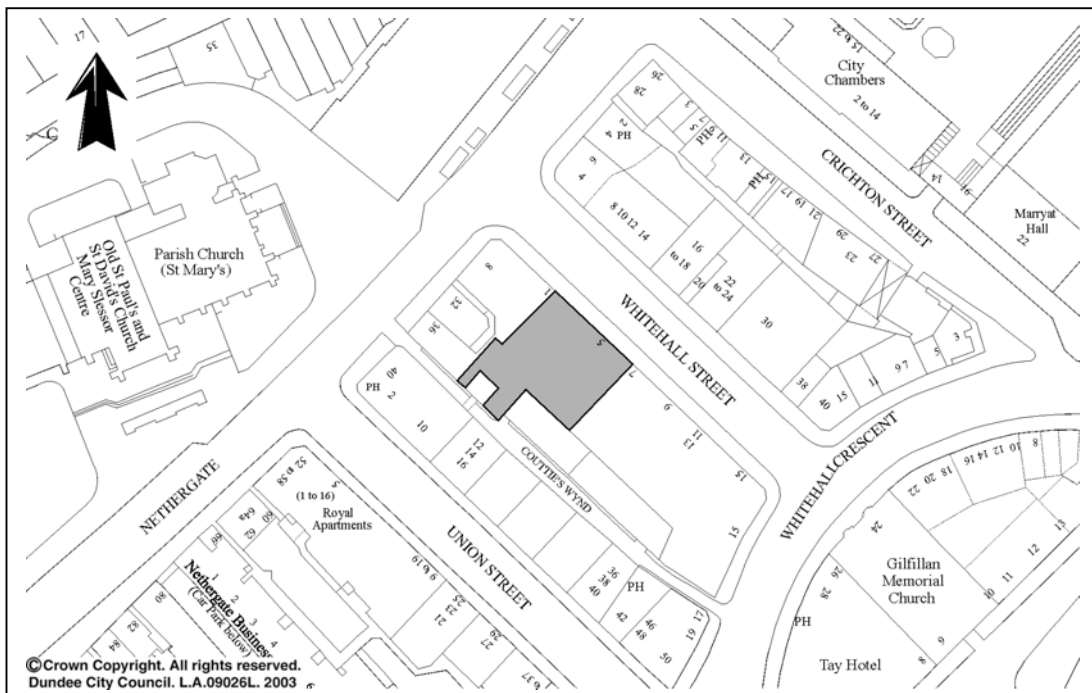
London & Regional
Properties Ltd
40 New Bond Street
LONDON W1Y 9HB

Agent

Keppie Planning Ltd
160 West Regent Street
GLASGOW
G2 4RL

Registered 21 July 2003

Case Officer D Gordon



The Part use of vacant ground floor and basement retail (Class 1) premises as Public House and first floor residential accommodation is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal is considered to be acceptable in land use terms. The development will not prejudice the vitality of the area and will add to the continuing improvement of the City Centre. Accordingly, the application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought to change the use of part of vacant basement, ground and first floor retail (Class 1) use within the former Debenhams department store to a public house use. The remaining upper floors are to be converted to a residential use.
- Seven separate letters of objection have been received. These objections relate to the proposal being contrary to local plan policies, an increase in servicing/traffic congestion/parking problems in the central area, an increase in associated noise and the provision of additional licensed premises in the city centre.
- The proposals are considered acceptable in land use terms in this location. The use of part of the application site for a public house use has previously been granted permission, on appeal, by the Scottish Executive.
- It is considered that the proposal will contribute to the continuing improvement and increased vitality of the city centre and will reuse a significant listed building in an important location the majority of which is currently lying vacant.

DESCRIPTION OF PROPOSAL

The Members may recall that a planning application to change the use of Unit 6 of the former and now vacant Debenhams store (located on the Whitehall Street / Nethergate junction) to a public house at basement, ground and first floor levels, was granted permission, on appeal, in September 2002.

The proposal now under consideration involves the repositioning of the public house use by the sub-division of Unit 6 into 2no. smaller units and utilising the south most section (Unit 6B), together with the adjacent Unit 5, for public house purposes at basement, ground and first floor levels. The remaining part of Unit 6 ie facing onto the Whitehall Street / Nethergate corner is to return to a retail use.

The first floor level is to be used for ancillary purposes associated with the public house. The second, third and fourth floors above have been granted permission for residential purposes.

SITE DESCRIPTION

The site comprises part of the northern section of the former Debenhams department store, the majority of which is currently unoccupied. The premises are a 4 storey (with attic) sandstone ashlar tenemental and commercial building with shopfronts on the ground floor fronting onto Whitehall Street. The site is located on the south side of the city centre and lies within an area of mixed uses which are diverse in character and typical of a city centre location.

The site is bounded by Whitehall Street to the east and Coutties Wynd to the west. The building is a Category B listed building and is contained within the Central Conservation Area.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Town Centres and Retailing Policy 3: Dundee Central Area. This policy

supports measures that would reinforce Dundee Central Area's role as one of Scotland's key centres providing a focus for retailing and related activity by inter alia, supporting further retail development and directing to the central area complementary leisure and commercial uses capable of contributing to its vitality and vitality.

Environmental Resources Policy 5A: Historic Environment. Development affecting listed buildings and their setting or conservation areas should have full regard to the need to retain important architectural features or historical interest and, where possible, secure improvements to the built environment.



Dundee Local Plan 1998

The following policies are of relevance:

Policy S5 - Secondary Retailing Area where non retail activities within Classes 1 (shops), 2 (offices), and 3 (food and drink) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 will generally be acceptable in ground floor shop type premises.

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

Policy LT10 - Parking for licensed and hot food premises will require to be in accordance with the standards set by the Council. In the central area, some

relaxation of the standards may be appropriate.

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 this is necessary in order to secure the future of the building having regard to other relevant policies in the Plan.

Policy BE17 - Alterations to listed buildings or a building in a conservation area will only be acceptable where the proposals have regard to the restoration or enhancement of 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 Dundee Local Plan Review

The following policies are of relevance:

Policy 34: City Centre Retail Core. Within the City Centre

Retail Core proposals for Class1 (retail) use will be encouraged. Proposals that would result in the loss of ground floor retail uses to uses other than Class 3 uses will not be permitted.

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 nightclubs, particularly those in close proximity to residential areas. There will be a presumption against the establishment of licensed premises (excluding restaurants) in the City Centre:

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

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 adaption of the building must minimal impact on its character and historic interest.

Policy 60: Alterations to Listed Buildings. 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 developments will be expected to preserve or enhance the character of the surrounding area.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

National Planning Policy Guideline 8: (Revised 1998) - Town Centres and Retailing. This NPPG sets out Government Policy for town centres and retail developments and also addresses non-retailing uses that have a role to play in contributing to the economic health and enhancement of town centres. This guideline offers advice on the sequential approach that planning authorities and developers should take to selecting new sites for retail, commercial and other key town centre uses.

Non Statutory Statements of Council Policy

There are no non statutory Council policies relevant to the determination of this application

LOCAL AGENDA 21

The proposal involves the re-use of vacant listed building which is sustainable and therefore in accordance with the Councils Local Agenda 21 policies.

SITE HISTORY

The Debenhams building has been the subject of a number of planning and listed building applications in recent years, the most relevant being:

D22837 - Change of Use of department store to form retail units on basement and ground floor and flats on the upper floors - Approved 29/09/1997

D24361 - Elevational alterations to form 7 retail units - Approved 21/01/2000.

01/30115/COU - Change of use of retail store to public house and hotel - Application Withdrawn Feb. 2002.

01/30178/COU - Change of use of part of former department store (3, 7, 9, 13 and 15 Whitehall Street) to public house, retail and restaurant units - Approved on appeal 18/09/2002.

02/00114/COU - Change of use of the northern section of a former department store to public house and flatted accommodation - Approved on appeal 18/09/2002.

02/00368/COU - Change of use of part of the former department store (Units 3&4) to restaurant with elevational alterations - Approved 28/10/2002.

02/00389/COU - Change of use of the northern section of department store to public house (basement, ground and first floor levels) and office accommodation on second, third and fourth floors - Approved 28/10/2002.

PUBLIC PARTICIPATION

The applicants have carried out the relevant neighbour notification procedure. In addition, the application was advertised in the local press under Section 34 of the Act as a 'bad neighbour' development. The proposal has attracted 7 separate objections with the relevant issues raised being:-

- 1 The proposal will result in an increase of public house facilities in the central area
- 2 The proposal will result in an increase in traffic congestion and further pressure on parking and servicing in Whitehall Street.
- 3 The proposals are contrary to the relevant Local Plan policies for the area
- 4 The proposal will have a detrimental impact on the general amenities of the surrounding area and the environmental quality of the surrounding occupiers by virtue of an increase in rubbish, vandalism and noise.

Copies of the above issues can be found in 'Observations' below. Copies are available for inspection in the Members Lounges

CONSULTATIONS

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

The Head of Environmental Health and Trading Standards has offered advice on noise and air quality issues and mitigation measures that may be required to be undertaken as part of the proposal. Concern is also expressed about future deliveries to the property from a health and safety point of view.

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.

The site under consideration is located on the west side of Whitehall Street approximately 25 metres to the south of its junction with Nethergate. The units under consideration form part of the former Debenhams department store which is now mostly unoccupied despite previous grants of planning permission for a number of various alternative uses. The building is a Category B listed building and is located within the Central Conservation Area.

The proposal involves the use of 2no. units (Units 5 and 6B) as a public house and ancillary uses at basement, ground and first floor levels of the property. The remaining floors (second, third and fourth) are to be converted to a residential use (as previously approved). The Members may recall that a proposal to change the use of Unit 6, which is located on the Nethergate / Whitehall Street junction was granted permission for a public house (on appeal) in September 2002. The applicants now propose to sub-divide this large unit into 2 smaller

units. The new north most unit (Unit 6A) ie on the Nethergate / Whitehall Street corner is to be reinstated as a retail use with Unit 6B, together with the adjacent unit to the south ie Unit 5, being used for public house purposes. In effect, the applicants are repositioning the approved public house use to a location slightly further to the south on the Whitehall Street frontage with Unit 6B already enjoying permission for this form of use as part of the previous appeal approval. The above mentioned new retail outlet to be located on the Nethergate / Whitehall Street frontage will accommodate a retail floorspace of 1033 sq. m which compares with the loss of a Class 1 retail use in Unit 5 of 393 sq.m. - representing a gain of some 640 sq.m. overall.

The provision of a public house on this Whitehall Street frontage is considered acceptable in land use terms. This view has been confirmed by the Scottish Executive in their approval for such a use on part of this site, and within other units in Whitehall Street / Whitehall Crescent, on appeal in September 2002. In his decision letter, the Reporter considered that the proposal to introduce a public house in this local area would not constitute a concentration of such uses to the detriment of the surrounding residential amenity. It was further considered that the public house, either alone or in association with another use in the upper floors of the building, would enhance the character of this part of the conservation area by adding to the vitality during both the daytime and evening hours and would enhance the appearance of the streetscape by the reuse of the listed building.

With regard to the phasing of the development, it is intended to attach a condition to any permission granted that would facilitate the conversion of the upper floors to any future use. Commenting on this matter in the above mentioned appeal decision, the Reporter considered that a condition previously proposed by the Council for a similar application, requiring the completion of the upper floor accommodation and making it available for use prior to the first occupation of the public house, was unreasonably restrictive and not essential to the buildings ensured retention. Consequently, in the interests of consistency, it is intended

to put forward all the conditions as suggested by the Reporter for this site. These conditions have been suggested in order to safeguard the amenity of nearby occupiers, to ensure the safe and efficient operation of vehicular traffic and in order to facilitate the conversion of the upper floors to a future use following the implementation of the public house use.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

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

The Finalised Dundee Local Plan Review proposes to extend the "Retail Core Area" to include this part of Nethergate and Whitehall Street wherein Policy 34: (City Centre Retail Core) applies. This policy encourages proposals for Class 1 (Retail) use but stipulates the "proposals which would result in the loss of ground floor retail uses to uses other than Class 3 will not be permitted". It also comments that "as an exception to this and subject to the careful consideration of their size, format and location, banks and building societies geared towards shoppers may be considered as acceptable complementary uses within the City Centre Retail Core. The proposed public house would therefore be contrary to this emerging policy.

However, as mentioned above, the current proposal would not result in a reduction of Class 1 retail floorspace within the proposed Retail Core Area, indeed the use of corner unit 6A would achieve an increase of 640 sq.m. retail floorspace. In addition, it is considered that it would be preferable to have a retail use on the Nethergate rather than the public house use previously approved.

Policy 52 (Restraint on Licensed Premises) requires that within the City Centre care will be taken to avoid an excessive concentration of public houses and nightclubs, particularly those in close proximity to residential uses. As such, there will be presumption against the establishment of licensed premises in the City Centre

- a with a total floor area in excess of 300 sq.m; or

- b any more than one in five units in a single frontage where the combined floor area is in excess of 300 sq.m.

While the policy presumes against this new public house, reference is made to the fact that part of the site (Unit 6B) has already been granted permission for a public house use and also that this new facility will have a smaller floor area than the public house previously granted permission on appeal.

The terms of Policy 59 (Alternative Uses for Listed Buildings), Policy 60 (Alterations to Listed Buildings) and Policy 61 (Development in Conservation Areas) are reflected in Local Plan Policies BE15, BE17 and BE11 discussed above.

It is concluded from the foregoing that insufficient 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.

With regard to the submitted objections, the majority of the issues raised have all been discussed during the various planning applications for the provision of a public house use in this general location. With regard to the future servicing of the premises, discussions on this matter are currently being undertaken with the applicants agents. In this respect, it is intended to attach a condition to any permission granted in order to ensure appropriate measures are in place prior to the commencement of any business operations within the premises. These are objections not considered to be of sufficient weight to resist support of the application.

Design

No details of any elevational alterations to the Category B listed building have been submitted for determination at this time. Should any external alterations be required, it will be necessary to submit to this Council a planning and/or listed building application for the proposed works. Internally, the years of trading as a retail outlet have left little of the original features and only a few of these are worthy of retention. In general, the proposal will not prejudice the character of the building or

adversely impact on the setting of the surrounding conservation area.

CONCLUSION

It is concluded that, following consideration of all the various relevant planning policies and material considerations, the provision of a public house in the former retail units proposed is acceptable on land use terms in this central area location. This has been confirmed by the approval of a public house use at basement, ground and first floor level on part of the application site (Unit 6B) on appeal by the Scottish Executive in September 2002. The proposal will also result in the potential re-introduction of a retail frontage on the Nethergate / Whitehall Street junction.

RECOMMENDATIONS

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 the details of the servicing arrangements for the new public house hereby approved have been submitted to and approved in writing by the planning authority.
- 3 All amplified music or vocals from the public house shall be so controlled as to be inaudible within the nearest residential accommodation
- 4 The development shall not commence until a scheme for the insulation, or other acceptable method, for the public house (to achieve the requirements of Condition 3 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 use commences.
- 5 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 public house 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 use commences.

- 6 The development shall not commence until details of the proposed residential accommodation on the upper floors, including lift shafts, stairways and ventilation ducts have been submitted to and approved in writing by the planning authority; these works (lift shafts, stairways and ventilation ducts) forming part of the approved scheme, and which are common to both the residential and the public house uses, shall be completed on all the upper floors to the satisfaction of the planning authority before the public house use commences

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 In order to ensure the safe and efficient operation of vehicular traffic within the city centre
- 3 In order to safeguard the amenity of nearby residents and other occupiers
- 4 In order to safeguard the amenity of nearby residents and other occupiers
- 5 In order to safeguard the amenities of nearby residents and other occupiers
- 6 In order to facilitate the conversion of the upper floors to residential accommodation following the implementation of the public house use.