

KEY INFORMATION

Ward Tay Bridges

Proposal

Formation of Timber Decking for extension to licensed premises

Address

34 Reform Street
Dundee
DD1 1RH

Applicant

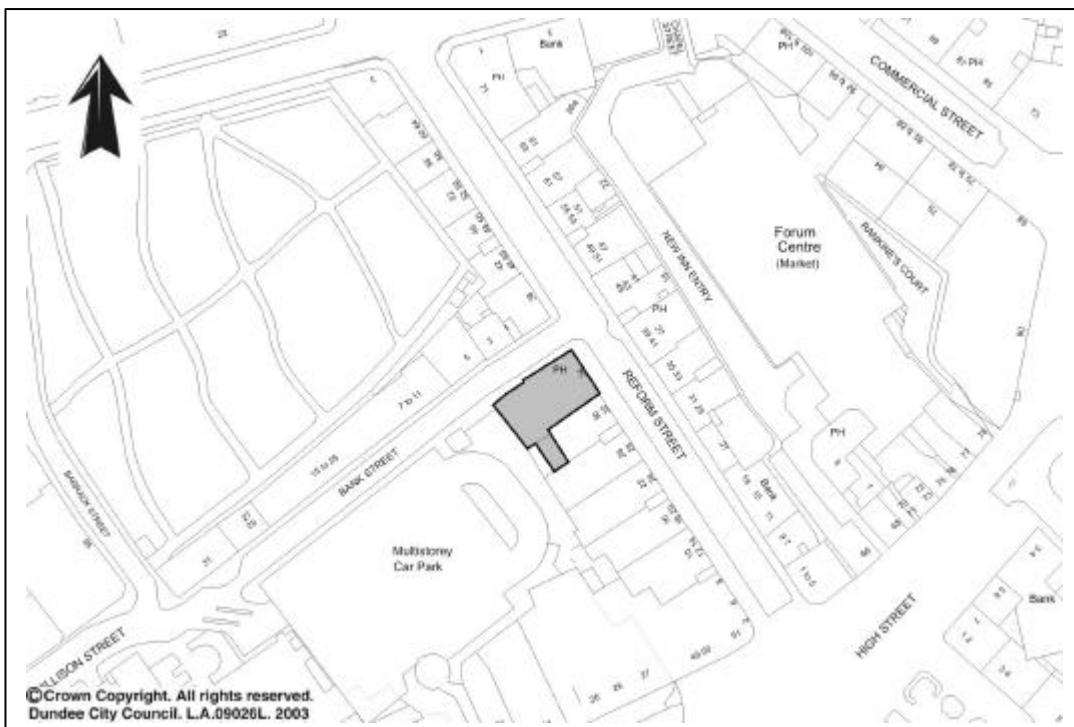
Belhaven Brewery Company
Atrium House
6 Back Walk
Stirling

Agent

Nicoll Russell Studios
111 King Street
Broughty Ferry
Dundee DD5 1EL

Registered 8 Nov 2005

Case Officer Eve Jones



Canopied Decking Area Proposed at Rear of Reform Street Pub

The Formation of Timber Decking for extension to licensed premises is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

There are no specific policies in the Dundee Local Plan Review 2005 which protect the amenities of commercial premises. The use of the proposed decking area with its protective canopies will be likely to result in increased noise and smell affecting the adjacent offices to an unacceptable degree. Accordingly, the application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for the formation of a timber decking area to form an extension to existing licensed premises. The installation of 4 canopies above the deck is also proposed. The applicants' agent has indicated that the deck will be licensed and will therefore form an external beer garden.
- The site is to the rear of the premises, screened from the street and the nearest flats to the north side of Bank Street. It is overlooked by adjoining commercial premises. One valid objection has been received from the adjoining premises on grounds of ingress of smoke to their offices.
- There are no policies in the Dundee Local Plan Review which refer to protection of amenity for commercial properties and the development would not affect the character of the Conservation Area due to its concealed position.
- With the impending smoking ban, the deck will be in use throughout the year with the canopies more likely to be used to protect patrons from inclement weather rather than from sunshine. This increased level of use will be likely to result in increased noise and smoke from the development having a detrimental impact on the adjoining commercial premises.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the formation of an area of timber decking and the installation of retractable canvas canopies to provide an extension to the licensed premises. The proposed deck measures 6 metres by 4 metres and the canvas canopies, two on each side giving a total of 4, cover almost all of the decking. The decking will be located on the partially demolished walls (approx 1.4metres high) of an existing store room in order to ensure that the deck is at the same level as the existing floor level of the main public house.

SITE DESCRIPTION

The site is an inner courtyard to the rear of an existing public house which was formerly a bank, on the west side of Reform Street and south of Bank Street. The site lies to the rear of the tenemental properties adjoining the public house which have commercial/retail units on the ground floor and offices above. The nearest residential units are on the upper floors of the properties on the north side of Bank Street some 28 metres away although the site of the proposed decking area is screened from these units by part of the public house building.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 61 - Development in Conservation Areas.

Dundee Urban Nature Conservation Subject Local Plan 1995

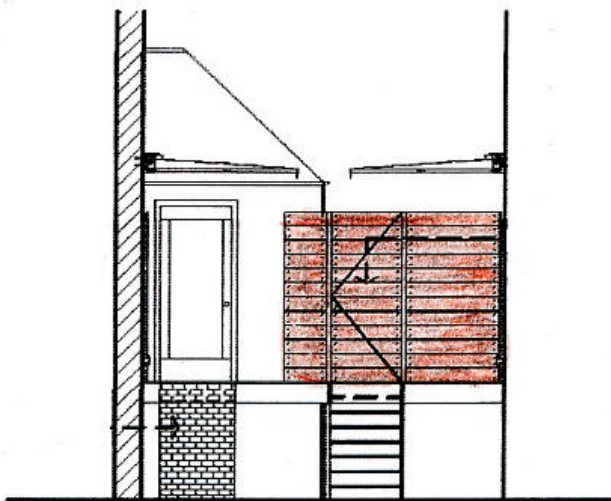
There are no policies relevant to the determination of this application

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application

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 does not comply with Key Theme 8, "Health is protected by creating safe, clean, pleasant environments..."

SITE HISTORY

There is no relevant planning history.

PUBLIC PARTICIPATION

The application was the subject of statutory neighbour notification and was also advertised as a potential Bad Neighbour development as the deck is proposed to be licensed. One valid objection was received from an adjoining business on the grounds of infiltration of cigarette smoke into their offices. Copies of the objection are in Members' lounges and will be considered in the Observations below.

CONSULTATIONS

Environmental Health and Trading Standards advises that the proposal for

a licensed external deck area is regarded as a beer garden and should be the subject of the normal conditions of operation which restrict the use to between 1200 and 2100 hours. A condition restricting use of amplified music on the proposed deck should also be applied if planning permission is to be granted.

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 does lie within the Central Area Conservation Area. However, it cannot be seen from any public areas and is only visible from very limited private locations, principally the adjoining offices. Therefore it is considered that the proposed development has minimal impact on the character of the Conservation Area and is not contrary to Policy 61.

The policies in the Plan protect the amenities of residential properties only, not businesses or commercial premises.

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:

Objection

The adjoining business has objected on grounds of public safety and health as

it is their contention that the purpose of the decking is to allow concentration of smoking. It is alleged that a concentration of cigarette smoke will be brought by the prevailing south westerly wind into the open windows of their adjoining offices throughout the majority of the year.

Whilst the public house will trade into the evening when the offices are likely to be closed, this is a City Centre public house with high trading levels throughout the day when the offices will be in use. The nature of use of the proposed deck will be to concentrate patrons drinking and smoking in a small space, below the office windows, which will be likely to result in noise, smells and fumes entering the adjoining premises. Whilst there are canopies proposed, they are retractable and are likely to be used as protective devices against inclement weather rather than to shield users from strong sunshine. They cannot be guaranteed to be used to prevent smoke drifting upwards into the offices especially in the summer months. With the new smoking ban, it will be likely to be used more than a conventional beer garden which is normally only in use in good weather. Therefore although noise is not mentioned by the objector, it is considered that noise impact on the offices on the upper floors

is likely to increase.

It is concluded from the foregoing that the submitted objection is considered to be a strong enough material consideration such as to justify the refusal of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be refused.

Design

Due to the location of the proposed deck there are no design issues.

CONCLUSION

There are no specific policies in the Dundee Local Plan Review which address the issues of amenity enjoyed by commercial premises. In this instance, the proposed licensed external decking area appears to be intended to function as both a beer garden and a smoking area. Beer gardens, if they are acceptable, are normally approved with restricted hours of operation. These restrictions would apply in this case. Beer

gardens normally operated for limited periods of time dependant upon prevailing weather conditions. However, the result of the smoking ban will be to encourage patrons to use this external area regardless of the weather and, as a result, the levels of use will be more concentrated and the resulting smell, fumes and noise will be increased. Indeed this level of use is anticipated by the proposed provision of 4 retractable canopies to almost totally screen the deck from above. It is considered that the City Centre location results in increased daytime use of this public house and the resulting levels of use of the proposed external decking area will be likely to have an unacceptable adverse impact on the adjacent offices by reason of increased smoke ingress and noise. It is therefore considered that the proposal is unacceptable for those reasons.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reason:-

Reason

- 1 It is considered that the use of the proposed decking area with its protective canopies will result in unacceptable noise and smell impact to adjacent offices throughout the year to the detriment of their occupants.