

KEY INFORMATION

Ward Broughty Ferry

Proposal
Proposed canopy to provide smoking area

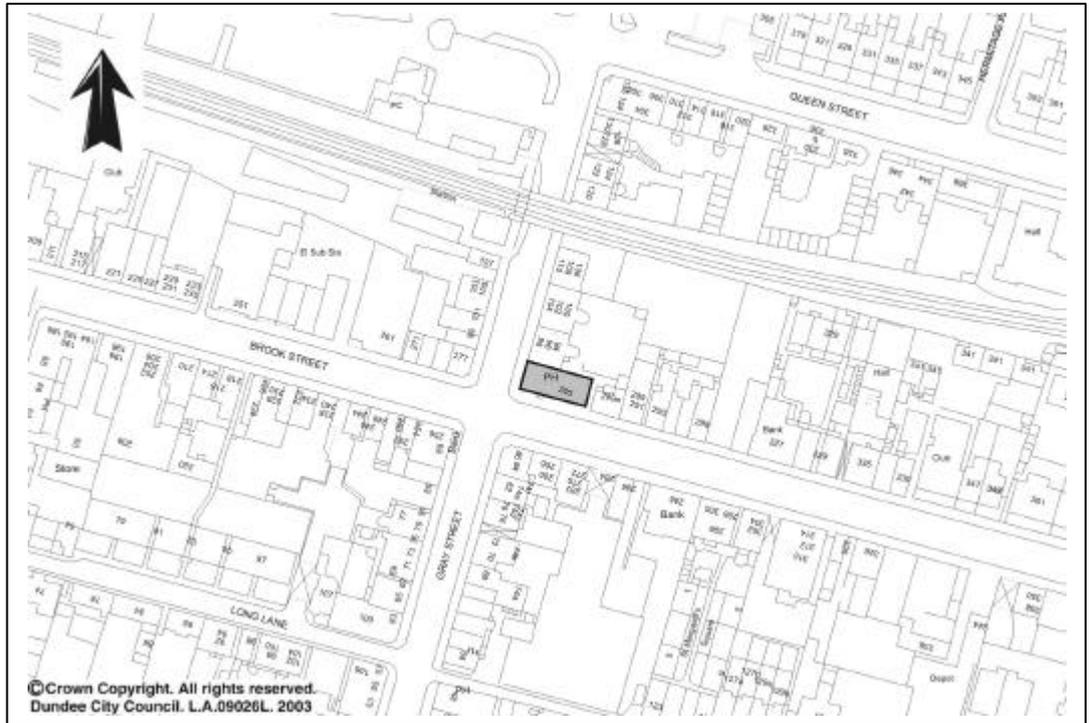
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Registered 27 Feb 2006

Case Officer J Young



Smokers' Canopy Over Footway at Royal Arch Bar

Proposed canopy to provide smoking area is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal is contrary to Policy 1 of the Dundee Local Plan Review 2005. The objections are supported in these circumstances. Accordingly the application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for elevational alterations to form a smokers' canopy on the front elevation of a public house at 285 Brook Street, Broughty Ferry, Dundee.
- Two letters of objection were received from an adjoining neighbour and a resident from Dundee who have concerns about potential noise problems due to people gathering outside the premises, adverse impact on the character of the area.
- There is a potential safety issue for pedestrians due to the height of the canopy above a public footway.
- It is considered that the proposed smokers' canopy will have an adverse impact on the amenity of adjacent residents due to potential noise problems. It will also have an adverse impact on the appearance and character of the area and on pedestrian safety.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of a smokers' canopy on the Brook Street elevation of a public house at 285 Brook Street, Broughty Ferry, Dundee. The proposed canopy will be retractable and extend 1.7m from the front of the building. A 4.6m wide box, containing the canopy, will be attached to the wall above an existing window and located below the fascia sign.

SITE DESCRIPTION

The application site is located on the north side of Brook Street and east side of Gray Street. It is a 2 storey building with single storey section on the east side. The building is traditional with a slate roof, cream painted top half of walls, burgundy lower half and black basecourse. There are various signboards and fascia signs on the building. There are flats adjacent to the Gray Street elevation and on the opposite side of Brook Street.



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 1: Vibrant and Sustainable Communities - new development should be in accordance with other policies in the Plan and seek to minimise any effect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Scottish Planning Policies, Planning Advice Notes and Circulars

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

Dundee City Council Development Quality Committee

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 planning history of direct relevance to the determination of the application.



PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and two letters of objection were received on the grounds of the adverse impact on residential amenity due to potential noise disturbance and adverse impact on the appearance and character of the area. Copies of the objection letter are available for viewing in the Members' Lounges and

will be considered in more detail in the Observations.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that the proposed development is designed to accommodate those patrons of the premises who wish to smoke. This will encourage people to congregate in a specific area, thereby resulting in the predictable consequence of an elevated noise burden on those residential properties on the absolute proximity of the development. If Members are minded to approve the application, a condition should be attached to ensure that no entertainment (music, vocals, amplified or otherwise, including TV) should be provided in the development area.

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.

Policy 1 seeks to protect the environmental quality enjoyed by local residents. It is considered that the proposal which is to form an area for smokers to use will result in an unacceptable level of amenity due to people congregating in one specific area during the opening hours of the public house and will subsequently result in noise disturbance for nearby residents.

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

Other Material Considerations

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

Objections

Two objections were received on the grounds of potential noise disturbance due to people congregating outside the premises. The adverse visual impact of the proposal on the appearance and character of the building was also raised as an objection. As discussed above, it is agreed that there is potential for the proposal to adversely affect the amenity enjoyed by adjacent residents due to noise disturbance. Therefore the objections are supported in these circumstances.

Pedestrian Safety

It is stated in the Roads (Scotland) Act 1984 that any projection above a public footway should be no less than 2.25m high. In these circumstances the box for the canopy will be 2m above the footway and the canopy itself will slope downwards. Therefore the proposal does not comply with this legislation and will result in a potential safety issue for pedestrians.

It is concluded from the foregoing that there are no material considerations such as to justify the grant of planning permission, contrary to the advice in the development plan. It is therefore recommended that planning permission be refused.

Design

It is considered that the proposed canopy and associated works will have an adverse visual impact on the front elevation of this building as the canopy will not extend over a wall as well as a window.

CONCLUSION

The proposal is contrary to Policy 1 of the Dundee Local Plan Review 2005 due to potential noise disturbance and the adverse visual impact of the proposed canopy on the appearance and character of the building. There are no material considerations that would justify approval of the application contrary to the development plan. Therefore the application is recommended for REFUSAL.

RECOMMENDATION

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

Reason

- 1 The proposal is contrary to Policy 1 of the Dundee Local Plan Review 2005 due to the potential adverse impact on the amenity enjoyed by adjacent residents due to noise disturbance. There are no material considerations that would justify approval of the application contrary to the Development Plan.