

KEY INFORMATION

Ward Balgay

Proposal

Formation of external licensed area, new pitched roof to building and elevational alterations

Address

83 Charleston Drive
Dundee
DD2 2HB

Applicant

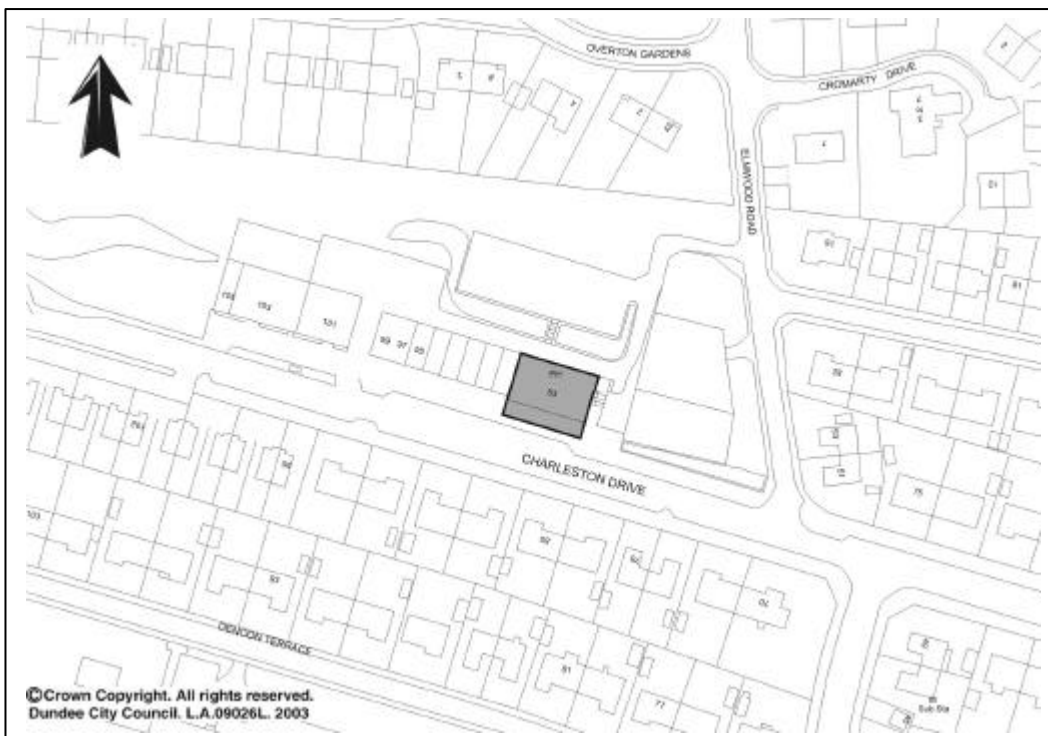
Commercial Pub Co Ltd
Belsize House
Belsize Road
Broughty Ferry
Dundee DD5 1NF

Agent

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

Registered 13 Apr 2006

Case Officer E Jones



New External Licensed Area Proposed in Charleston Drive

The formation of an external licensed area is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation.

RECOMMENDATION

The development fails to comply with Policy 1 in respect of layout and noise impact and Policy 53 due to the proximity of the proposed beer garden to the nearest houses. Objections from 11 neighbours on the grounds of increased noise and disturbance are supported. Accordingly the application is Recommended for REFUSAL.

SUMMARY OF REPORT

- Planning permission is sought for the formation of an external licensed beer garden area, a new pitched roof and elevational alterations as part of the renovation and refurbishment of an existing public house. The beer garden is proposed on the south side of the building adjacent to the road.
- The property is at the east end of a line of shops on the north side of Charleston Drive. It is flat roofed and quite utilitarian building with an elevated entrance terrace. The adjacent units include take aways, newsagent and betting shop. The area is a busy local shopping centre on a busy local road.
- The proposal fails to comply with Policy 53 Licensed and Hot Food Premises outwith the City Centre as the proposed beer garden is within 30 metres of existing housing and Policy 1 which seeks to minimise any affect on the environmental quality enjoyed by local residents.
- Objections were received from 11 neighbours and were supported on the grounds of the potential increase in noise and disturbance to local residents from the proposed beer garden.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the formation of an external licensed area to the front of the premises and the formation of a new pitched roof to the building with elevational alterations. A porch with a pyramidal roof is proposed above the entrance with new railings to the terrace and a smaller porch roof over the access on the east elevation. Materials will be facing brick and render with timber detailing and red tiled roof.

SITE DESCRIPTION

The public house is the last property at the eastern end of a block of shops and commercial premises on the north side of Charleston Drive. It has an open terrace of 20 metres by 4 metres elevated above the street by about 1/2 metre and surrounded by railings. The building is flat roofed and is single storey to the street but has additional accommodation on the lower floor due to the steeply sloping nature of the site to the rear. These properties have a tarmaced forecourt and footpath. There is on street car parking and an extensive, but rarely used, area for car parking to the rear, accessed from Elmwood Road. There are a range of commercial premises including newsagents, video hire and hot food takeaways. The area is a busy local shopping centre and Charleston Drive is a busy local road. The surrounding area is residential. The houses on the south side of Charleston Drive are elevated above the road level.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

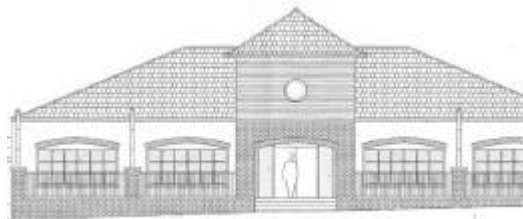
Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 1 - Vibrant and Sustainable Communities. The policy encourages the development of an appropriate range of services and facilities close to and within housing areas. 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 and smell.

Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The policy states that no licensed premises is acceptable within 30 metres of existing or proposed housing if the outlet does not exceed 150 metres gross floorspace.

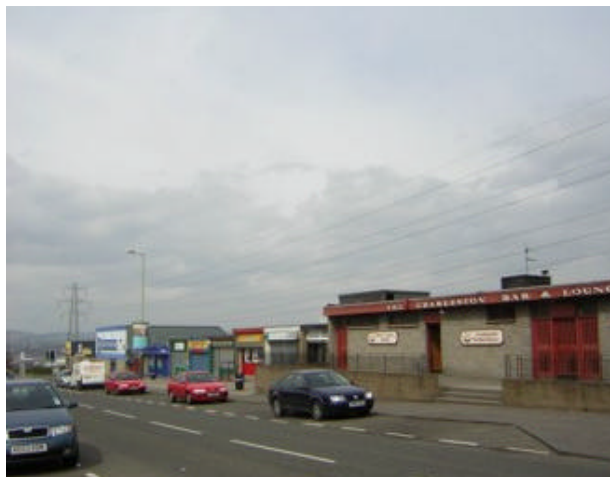


LOCAL AGENDA 21

Key Theme 7 requires that access to facilities, services, goods and people is not achieved at the expense of the environment.

SITE HISTORY

D24880 change of use of patio to beer



garden, approved by the Development Quality Committee for 1 year until 31 January 2002.

02/00013/COU change of use from paved area to beer garden, approved by the Development Quality Committee for 1 year until 31 March 2003.

03/00089/CONBRE Enforcement investigation regarding operation of site as beer garden following expiry of planning permission, 12.08.2003.

04/00517/COU change of use of patio to beer garden refused, contrary to Policy LT8, Development Quality Committee 30 August 2004

PUBLIC PARTICIPATION

The application was the subject of statutory neighbour notification and was also advertised as a development contrary to the Development Plan. Nine standard and two individual letters of objection were received from neighbours. The grounds of objection are proximity to houses, loss of privacy, traffic congestion, location relative to schools and previous use of the site as a beer garden. Copies are available in Members Lounges. The objections will be considered in the Observations below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that the normal restrictive hours on the operation of beer gardens should be applied and there should be no amplified music or vocals within the 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 - Vibrant and Sustainable Communities. The policy encourages the development of an appropriate range of services and facilities close to and within housing areas. 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 and smell.

This is an existing public house which lies at the end of a line of shops and businesses within a predominantly residential area. The building is very utilitarian and the proposed new roof and porch will improve the visual appearance of the unit. The adjoining units do attract traffic and pedestrians, often later into the evening, to the video rental and hot food take aways. The provision of a beer garden on the south side of the public house is likely to be an additional attraction to patrons in suitable weather conditions. In addition, in the light of the recent smoking ban, patrons are likely to make use of the external seating and shelter beneath the entrance porch throughout the year and at all hours when the public house is open. As a result, there is the potential for groups to gather in the beer garden area adjacent to the street with the resulting increase in noise and disturbance to local residents. There are parking issues in this location relating to the various uses in this complex of local shops. These are a matter for traffic regulation enforcement by the police. The area has parking but patrons do not use it for a range of reasons.

It is concluded that the proposed development does not comply with Policy 1 in respect of the potential for noise impact on the amenities enjoyed by neighbours by the proposed external licensed area on the south side of the building.

Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The policy states that no licensed premises is acceptable within 30 metres of existing or proposed housing if the outlet does not exceed 150 metres gross floorspace or within 45 metres if the 150 square metre figure is exceeded. The application is in respect of the renovation and re-roofing of an existing public house and the change of use of an outside patio of 20 metres by 4 metres for a licensed beer garden. Extensions to public houses and beer gardens are required to comply with these distance requirements in the interests of residential amenity. The houses to the south are 27 metres from the boundary of the terrace and therefore the proposal does not comply with this policy.

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. 9 standardised letters and 2 individual letters of objection have been received from neighbours in houses to the south. The letters refer to the following objections

- i A beer garden to the front brings the activities of the public house closer to the house with increased noise and disturbance.
- ii There is a history of bad behaviour in respect of past use of the site and management cannot control activities in this area.
- iii The beer garden is close to shops popular with school children and is not shielded from them.
- iv Traffic congestion will increase if more customers are attracted to the public house and many leave their cars on street for collection later.
- v The new windows proposed on the south elevation of the public house will look directly into the houses opposite, invading their privacy.
- vi The proposed development is contrary to the Dundee Plan 2003.

Objection i) is agreed and the proposal fails to comply with Policy 53 in the Dundee Local Plan Review 2005. Objection vi) refers to the previous local plan which has now been superseded. Objections ii) and iii) are a matter for the licensing board and the police. Objection iv) is a matter for the police in the management of traffic at this group of shops. Objection v) there is a significant difference in levels (approximately 2 metres) between the public house and the houses on the south side of Charleston Drive which are at a higher level and therefore is not considered to be any loss of privacy for the occupants of the private houses. One objection refers to the character of the Conservation Area, this site is not within a Conservation Area.

It is concluded that the objections on the grounds of loss of amenity due to increased noise and disturbance are supported.

Previous Planning History.

Two temporary planning permissions have been granted in respect of this proposed use as detailed in Site History above. Both permissions were granted for a period of 1 year and were subject to conditions relating to hours of operation, external planting and seating and restrictions on music. No details of seating or planting were submitted and the Head of Environmental Health and Trading Standards advised that the hours of operation were regularly exceeded. No planning permission has been in effect since March 2003 as the subsequent application for a beer garden was refused by the Development Quality Committee on 30 August 2004. The site has been regularly monitored and no breaches of planning control have been reported.

Temporary consents are granted for limited periods in order to allow the impact of a change of use to be assessed and monitored. This application is for the renovation and refurbishment of the building including the provision of a new roof and the use of the external terrace as a licensed beer garden. A temporary consent would not be appropriate in this case.

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.

Design

The proposed renovation and refurbishment includes the provision of a pitched roof and a feature porch with a pyramidal roof over the entrance. This represents a substantial investment and a significant improvement to the appearance of this flat roof, utilitarian building.

CONCLUSION

It is considered that there are no material considerations of sufficient strength to justify the granting of planning permission contrary to the provisions of the Development Plan. Accordingly, the application is Recommended for REFUSAL.

RECOMMENDATION

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

Reasons

- 1 The proposed licensed beer garden is contrary to Policy 53 of the Dundee Local Plan Review 2005 as it lies within 30 metres of existing housing and there are no material considerations of sufficient strength to support the granting of planning permission contrary to the policy.
- 2 The proposed use of the licensed terrace on the south side of the building does not comply with Policy 1: Vibrant and Sustainable Communities of the Dundee Local Plan Review 2005 as the layout will be likely to increase the noise and disturbance to the detriment of the environmental quality enjoyed by local residents and there are no material considerations of sufficient strength to justify the granting of planning permission contrary to that Policy.