

KEY INFORMATION

Ward Lochee West

Proposal

Formation of beer garden with 1.8m timber slatted fence, jumbrellas and external awning

Address

31 Buttars Loan
Dundee
DD2 4PE

Applicant

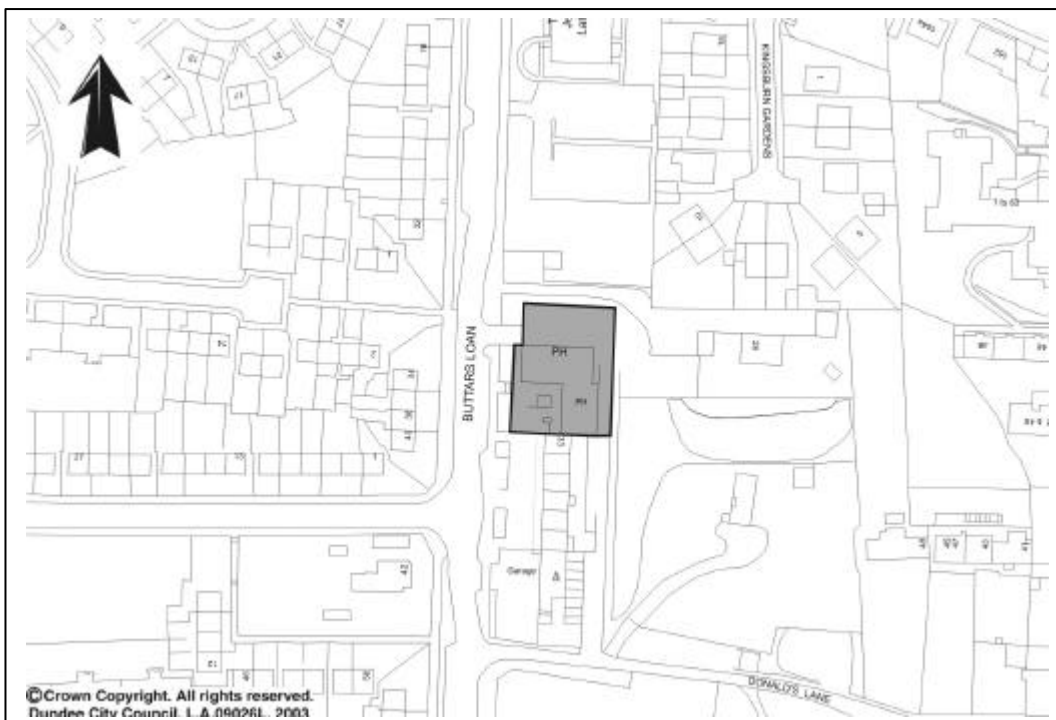
Punch Pub Company
Jubilee House
Second Avenue
Burton-upon-Trent

Agent

Davidson Design Partnership
191A Nicol Street
Kirkcaldy
KY1 1PF

Registered 4 Apr 2006

Case Officer E Jones



Beer Garden Proposed in Buttars Loan

The formation of beer garden with 1.8m timber slatted fence, jumbrellas and external awning is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development is contrary to Policy 53 and Policy 1 of the Dundee Local Plan Review 2005 due to the proximity of the proposed beer garden to the adjacent housing and the potential for increased noise to affect residential amenity. There are no material considerations in support of the application. Accordingly, the application is Recommended for REFUSAL

SUMMARY OF REPORT

- Planning permission is sought for the formation of an external licensed beer garden area with 2 jumbrellas enclosed by a timber fence and the installation of an awning above the door. The beer garden is proposed on the west side of the building adjoining shops and flats.
- The property is at the north end of a line of shops on the east side of Buttars Loan. It is separated from the road by an elevated entrance terrace. The adjacent units include a grocers, a take away 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 2 neighbours on the grounds of the potential increase in noise and disturbance to local residents from the proposed beer garden. The objections are supported.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the formation of a beer garden to be enclosed by a 1.8 metre timber slatted fence, the installation of an external awning and 2 large jumbrellas to protect the external seating. The beer garden will be 7.2 by 12.5 metres and will have timber bench seating along one side. The awning above the entrance door will be 4.8 by 2.1 metres and will have a wall mounted heater. Two large jumbrellas 4 metres square will be set into concrete bases.

SITE DESCRIPTION

The public house is the last property at the northern end of a block of shops and commercial premises on the east side of Buttars Loan. The site is an elevated terrace of 14.5 metres by 14 metres elevated above the street by about 1 metre and separated by an area of planting. The building is single storey to the street. Due to the sloping nature of the site to the south, the adjoining shops are on a lower level and there are flats above which adjoin the public house. There is a short layby offering on street car parking, informal parking adjacent and a small parking area in front of the shops. The shops comprise a mini-market, a betting shop and a take away with a car repair/service business to the south. The area is a busy local shopping centre and Buttars Loan is a busy local road. The surrounding area is residential.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

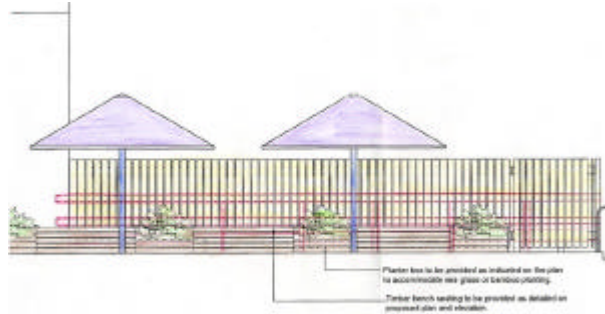
Dundee Local Plan Review 2005

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.



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

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

SITE HISTORY

There is no history of relevance to this application.

PUBLIC PARTICIPATION

The application was the subject of statutory neighbour notification and was also advertised as a development contrary to the Development Plan. Two objections were received from neighbours. The grounds of objection are proximity to houses and loss of residential amenity due to increased noise and nuisance. 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 there has been a history of complaints from the residents of the adjacent flats regarding disturbance from the congregation of pub patrons at this site. The creation of a beer garden in this location, within such absolute proximity of the flats, has clear potential to increase the noise burden to residents as evenings progress

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 set back from the road by an elevated terrace. The provision of a beer garden on this terrace 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 proposed awning and the jumbrellas throughout the year and at all hours. As a result, there is the potential for groups to gather in the

beer garden area adjacent to the flats with the resulting increase in noise and disturbance to local residents.

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 and projecting awning.

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. Extensions to public houses and beer gardens are required to comply with these distance requirements in the interests of residential amenity. The flats to the south are immediately adjoining the side of the proposed 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. 2 objections have been received from neighbours in the adjoining flats to the south on grounds of detriment to the residential amenity because of the noise and nuisance caused by the clientele of the public house. As noted above, the Head of Environmental Health and Trading Standards advises that there has been a history of complaints from the residents of the adjacent flats regarding disturbance from the congregation of pub patrons at this site.

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

Design

There are no design issues raised by this application.

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. The objections are supported. Accordingly, the application is Recommended for REFUSAL

RECOMMENDATION

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

Reasons

- 1 The proposed development is contrary to Policy 53: Licensed and Hot Food Premises outwith the City Centre of the Dundee Local Plan 2005 as the beer garden would be within 30 metres of residential properties and there are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 2 The proposed development is contrary to Policy 1: Vibrant and Sustainable Communities of the Dundee Local Plan Review 2005 as the layout and operation of the beer garden and use of the awning would be likely to adversely affect the environmental qualities enjoyed by local residents by virtue of the likely increase in noise and disturbance from patrons and there are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.