

KEY INFORMATION

Ward Broughty Ferry

Proposal

Installation of 2 fully retractable awnings

Address

77-79 King Street
Broughty Ferry
Dundee

Applicant

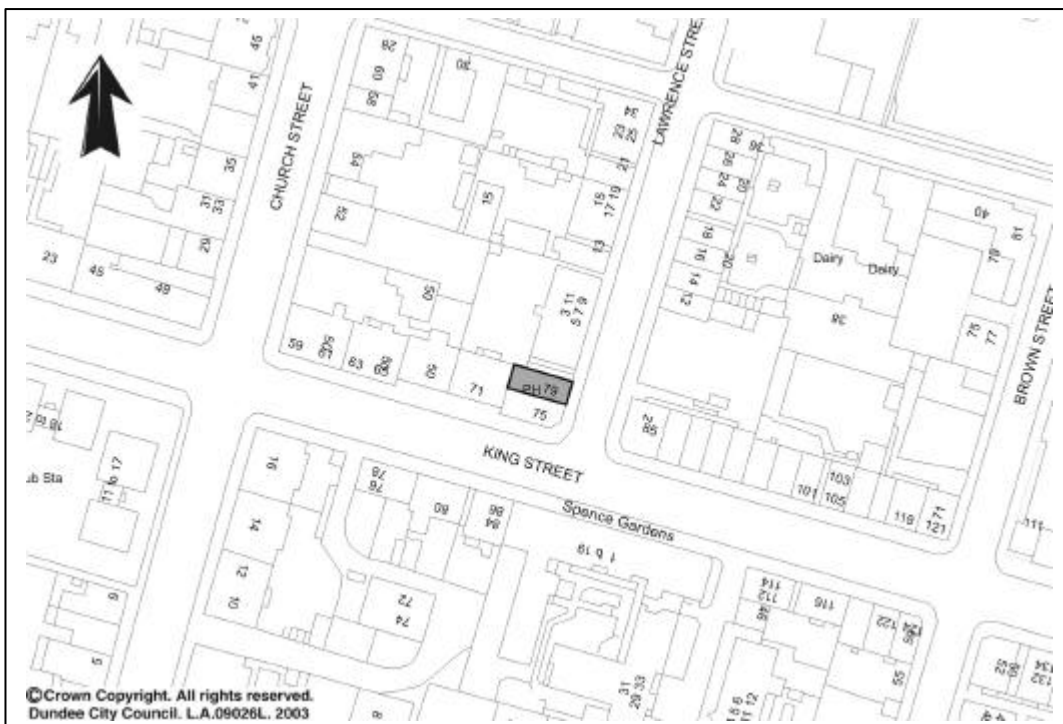
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Registered 13 Sept 2006

Case Officer J Young



Proposed Awnings on Public House in King Street

The installation of two awnings is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal is contrary to Policies 1 and 61 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 the installation of two fully retractable awnings on the south elevation of a public house at 77-79 King Street, Broughty Ferry, Dundee.
- The premises are located within the Broughty Ferry Conservation Area.
- Two letters of objection were received from neighbouring residents on the grounds of the adverse impact on residential amenity due to noise and smell and the adverse impact on the character and appearance of the conservation area.
- It is considered that the proposed awnings will have an adverse impact on the appearance of the building and on the character of the conservation area. In addition the amenity of residents in the flat above will be adversely affected due to noise and smell.

DESCRIPTION OF PROPOSAL

This application seeks planning permission for two fully retractable awnings on the south elevation of The Gunners' Arms at 77-79 King Street, Broughty Ferry, Dundee. The proposal includes the installation of two boxes containing the awnings which will protrude 2m from the front of the building, when fully open. One awning is 4.1m wide and the other is 4.5m wide. They will be located 2.1m above the footway and over 3 windows on the south elevation and either side of the front entrance door. The proposed awning will be green and a sample of the material and colour has been submitted.

The proposal is designed to provide an area for those patrons of the public house who wish to smoke, in light of the recent Legislation that has banned smoking in public houses and other public places from the 26 March 2006.

SITE DESCRIPTION

The application site is on the ground floor of a two storey traditional stone building with white painted walls, black basecourse, slate roof and green doors and fascia sign. There is small hanging sign with overhead lights on the King Street and Lawrence Street elevations and green fascia signs. There are entrance doors on the two elevations. There is a flat above the public house and residential properties to the west, north and on the opposite side of King 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 seeks 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.

Policy 61: Development in Conservation Areas will be expected to preserve or enhance the character of the surrounding area.

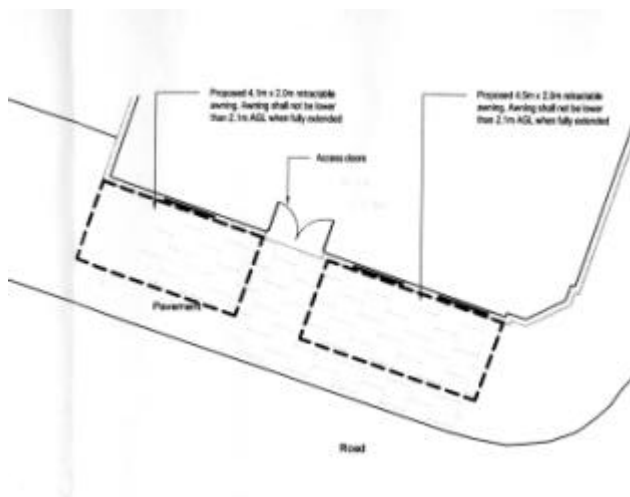


Scottish Planning Policies, Planning Advice Notes and Circulars

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.



SUSTAINABILITY ISSUES

This application raises issues relating to the Council's sustainability policies concerning the potential for noise intrusion. This issue is discussed in greater detail below.

SITE HISTORY

There is no site history of relevance to 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 and smell disturbance and adverse impact on the character of the conservation area. Copies of the objection letters are available for viewing in the Members' Lounges and will be considered in more detail in the Observations section below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that the proposed awnings will encourage people to congregate in a specific area, thereby resulting in the predictable consequence of an elevated noise burden on those residential properties in the absolute proximity of the development. Groups of individuals congregating to smoke under the windows of living apartments are likely to give rise to noise complaints. 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.

The Architectural Liaison Officer of Tayside Police has stated that there is no public space CCTV present at the site and so they have no issue with the proposal.

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.

In terms of Policy 1 of the Dundee Local Plan Review 2005, it is considered that the design of the proposal is not appropriate for this building as it will detract from the character of the building and surrounding area. As there are residential properties above and adjacent to the public house, it is considered that the canopies will result in the congregation of a number of people in a specific area during opening hours for smoking purposes and therefore this will have an adverse impact on residential amenity due to noise and smell. For these reasons it is considered that the proposal does not comply with Policy 1 of the Dundee Local Plan Review 2005.

New legislation came into force on March 26th 2006 which introduces a ban on smoking in public places. This proposal has been designed to provide a designated area for those patrons of the public house who wish to smoke, in light of this new legislation. The applicant has not indicated that he intends for the proposed smoking area to be licensed.

The proposed awnings are located on the front elevation, to either side of the front entrance of the public house. Retractable canvas awnings will be attached to the wall above the windows and will protrude 2m from the building. They will be 2.1m high above the public footway, when fully extended. The recommended height above a public footway under the Roads (Scotland) Act 1984 is 2.25m and therefore it is considered that pedestrian safety will be jeopardised by the proposal.

Policy 61 states that all development proposals will be expected to preserve or enhance the character of the surrounding area. It is considered that the installation of awnings on the front elevation of the public house will detract from the appearance and character of the conservation area. The Memorandum of Guidance advises that canopies are normally only acceptable where they are serving a purpose of protecting items within a shop window, which is not the case in these circumstances. The alterations to

the frontage of the public house are considered unacceptable and will detract from the character of the conservation area.

From the foregoing it is concluded that the proposal does not comply with the provisions of Policies 1 and 61 of the Dundee Local Plan Review 2005.

Other Material Considerations

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

The Memorandum of Guidance on Listed Buildings and Conservation Areas

This provides guidance on the acceptability of proposed developments. Paragraph 2.21 notes that it is not merely the building itself but also its contribution to the street scene. The building is located within Broughty Ferry Conservation Area and makes a valuable contribution to the character of the area at this location. It is considered that the proposed awnings will detract from the character of the building and area.

It is concluded from the foregoing that the statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 would not be satisfied by the approval of this proposal.

Objections

Two letters of objection were received on the grounds of the adverse impact on residential amenity due to potential noise and smell disturbance and adverse impact on the character of the area. It has been discussed under the Policy section above that the proposal has the potential to adversely affect residential amenity due to noise and smell and will adversely affect the visual appearance of the building and conservation area. Therefore the objections are supported in these circumstances.

It is concluded from the foregoing that insufficient weight can be accorded to any material consideration such as to justify the grant of planning permission, where the application contravenes the Development Plan. It is therefore recommended that planning permission be refused.

Design

The design of the canopies is considered unacceptable for this

building, which is located within a conservation area.

CONCLUSION

The proposal does not comply with Policies 1 and 61 of the Dundee Local Plan Review 2005 due to the potential adverse impact on residential amenity due to noise and smell and the adverse visual impact on the building. The objections are supported in this instance. Therefore the application is recommended for REFUSAL.

RECOMMENDATION

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

Reasons

- 1 The proposal is contrary to Policy 1 of the Dundee Local Plan Review 2005 due to the adverse impact on residential amenity due to noise and smell. There are no material considerations that would justify approval of the application contrary to the Development Plan.
- 2 The proposal is contrary to Policy 61 of the Dundee Local Plan Review 2005 due to the adverse visual impact on the character of the conservation area. There are no material considerations that would justify approval of the application contrary to the Development Plan.