

**KEY INFORMATION**

Ward Balgay

**Proposal**

External decked non licensed smoking area to the front of the premises

**Address**

The Jimmy Shand  
Dickson Avenue  
Dundee

**Applicant**

Punch Pub Company  
Jubilee House  
Second Avenue  
Burton Upon Trent  
Staffordshire DE14 2WF

**Agent**

Davidson Design Partnership  
The Studio  
191A Nicol Street  
Kirkcaldy KY1 1PF

Registered 16 Aug 2006

Case Officer E Jones



## Proposed Smoking Area at Public House in Dickson Avenue

An external decked non licensed smoking area to the front of the premises is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposal fails to comply with Policy 1 Vibrant and Sustainable Communities of the Dundee Local Plan 1995 by reason of the increased noise impact to neighbours. Ten objections on grounds of noise are supported. There are no material considerations which would support the granting of planning permission contrary to the policy and the application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- Planning permission is sought for the formation of an outdoor decked unlicensed seating area with the installation of screen fences, seating and tables with a 3 metre square fabric jumbrella and heating.
- This is a two storey purpose built public house on an elevated position on the north side of Dickson Avenue. The site is on the south side of the building facing Dickson Avenue. The proposed deck lies approximately 1 metre above the adjacent footway and there is a bus shelter immediately to the south. The surrounding area is residential in character, with the nearest houses to the south being 25 metres away.
- The proposal fails to comply with Policy 1 Vibrant and Sustainable Communities by reason of the increased noise impact to neighbours.
- Ten objections have been received from nearby residents, all on grounds of noise but also anti-social behaviour, parking and health. The objections on grounds of noise are supported.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for the formation of an outdoor decked unlicensed seating area with the installation of screen fences, seating and tables with a 3 metre square fabric jumbrella. The plans also indicate a gas patio heater as required.

## SITE DESCRIPTION

A two storey purpose built public house on an elevated position on the north side of Dickson Avenue. The site is on the south side of the building facing Dickson Avenue. There is a canopy which projects almost 2 metres, formed by the upper floor of the building and extending along most of the frontage. The proposed deck lies approximately 1 metre above the adjacent footway and there is a bus shelter immediately to the south. The surrounding area is residential in character, with the nearest houses to the south being 25 metres away, across the road.

## 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 policy is 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.

### 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 concerns in relation to noise issues.

## SITE HISTORY

There is no relevant planning history.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and 10 objections were received on the grounds that the proposed seating area will increase noise and anti social behaviour, will encourage more traffic and parking and will be open all year rather than be a seasonal beer garden. Copies of the objection letters are available for inspection in the Members' Lounges.



The issues raised will be discussed in further detail in the 'Observations' section of this report.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that there is a history of complaints from local residents regarding the disturbance caused by smokers gathered outside these premises.

## 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, the application raises issues in terms of noise.

The proposed unlicensed seating area is located at the front of the building. Due to the sloping ground and the elevated nature of the site, the proposed terrace would be very prominent. The nearest residents are 25 metres away to the south. This development has the potential to affect residents by reason of noise and many complaints about activities at these premises have already been made by residents to the police, local elected members and the Licensing Board.

It is likely that the size and scale of the area combined with the size of the proposed jumbrella would encourage significant numbers of patrons to gather especially given the impact of the recent smoking ban. The provision of heating and lighting will further encourage use of the area over longer periods of time in all weathers.

This is likely to result in increased noise affecting the adjacent neighbours. Therefore, for the above reason, it is considered that the proposed development does not comply with Policy 1 of the Dundee Local Plan Review 2005.

## Other Material Considerations

### Objections

The objectors are all concerned about an increase in noise from the proposed decked smoking area to the front of the public house, an increase in abuse of passers by and anti-social behaviour is reported and objectors also cite increased traffic and parking and smoke affecting people waiting at the nearby bus stop. The noise issue is discharged in the policy section above. Any increase in traffic and parking is likely to be minimal and the site has a car park to the rear. The health impact on passing pedestrians and those waiting at the bus stop is likely to be minimal as the site is elevated above the footway. Anti-social behaviour is a matter for the Licensing Board to

consider. The objections in respect of noise are supported.

### Design

This is a modern purpose built public house. The timber fence which is proposed around the deck and the jumbrella will not have any significant adverse impact on the appearance of the building.

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## CONCLUSION

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It is concluded that the proposed development does not comply with the provisions of Policy 1 of the Dundee Local Plan 2005. The views of the objectors are supported in respect of noise. It is recommended that planning permission be REFUSED.

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## RECOMMENDATION

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

### Reason

- 1 The proposed decking area fails to comply with Policy 1 Vibrant and Sustainable Communities of the Dundee Local Plan 1995 by reason of the increased noise impact to neighbours. There are no other material considerations which would support the granting of planning permission contrary to this policy.