

KEY INFORMATION

Ward Bowbridge

Proposal

Change of use from communal garden ground to rear of premises to seated smoking area. Access link from public bar to snug bar also to be created.

Address

117 Strathmartine Road
Dundee
DD3 7SD

Applicant

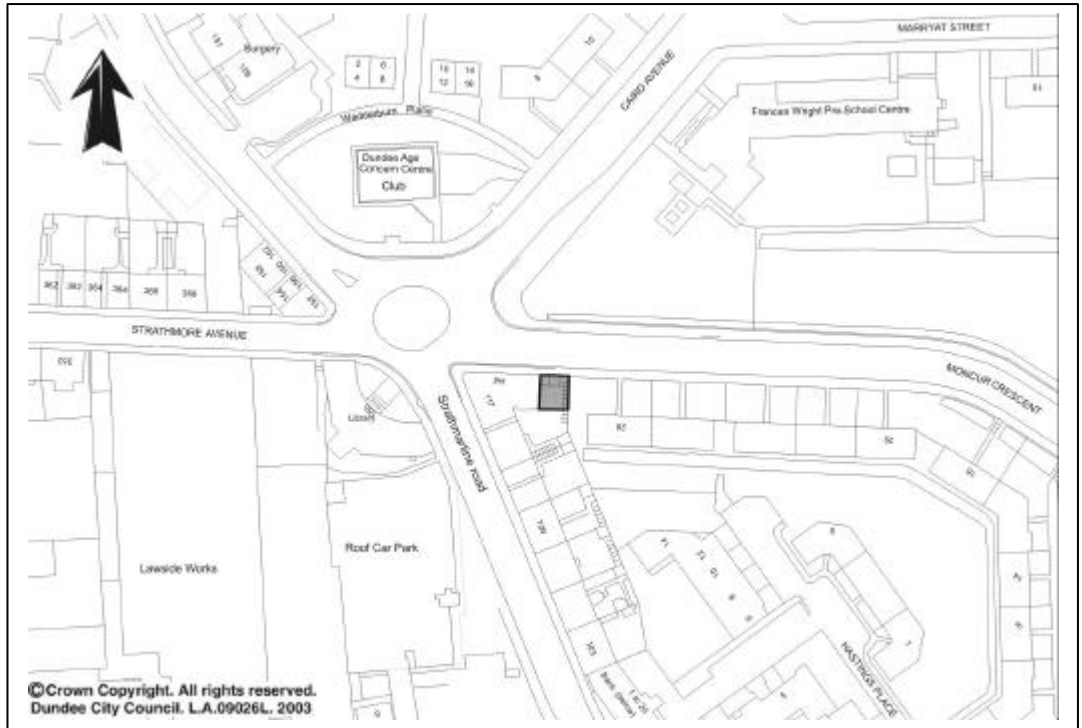
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Agent

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Registered 23 Aug 2006

Case Officer S Johnson



External Smoking Area Proposed in Strathmartine Road

A change of use from communal garden ground to seated 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 as the seating area will encourage patrons to gather outside the premises and the resulting increase in noise will have an adverse affect on the amenities of neighbours. It is considered that the objections submitted support the recommendation of refusal. Therefore the application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for the change of use from communal garden ground to a seated smoking area to the rear of 117 Strathmartine Road, Dundee.
- Ten letters of objection from surrounding neighbours were received on the grounds of noise disturbance, smell, ownership, security, residential amenity, devaluation of properties and possible fire hazard.
- Policy 1 of the Dundee Local Plan Review 2005 is relevant to the determination of the application as this policy seeks to protect the amenity of neighbouring residents.
- It is considered that the proposal does not comply with Policy 1 of the Dundee Local Plan Review 2005. It is considered that the views of the objectors are supported and there are no material considerations that would justify the approval of this application contrary to the provisions of the development plan.

DESCRIPTION OF PROPOSAL

Planning permission is sought for change of use from communal garden ground to a seated smoking area to the rear of 117 Strathmartine Road. The development consists of the provision of a new door access on the west elevation to replace an existing window. This will provide a new link access from the snug bar to the proposed smoking area. This access will have ramp access. A double boarded fence (approximately 2metres in height) will be erected to divide the communal garden area from the proposed smoking area. Timber decking will be installed in the smoking area. This will be raised to an overall height of 350mm. An existing rear access door along the northern boundary wall which is currently blocked off will be reinstated and increased in width to allow for access and to provide an emergency exit to and from Moncur Crescent. One jumbrella measuring 3.5metres x 3.5metres will be provided in the main seating area within the smoking area.

SITE DESCRIPTION

The application site is a corner site located on the east side of Strathmartine Road and the south side of Moncur Crescent. It is a five storey tenement block with the ground floor being used as a public house. The upper floors are flatted properties. The site for the proposed smoking area is currently a communal bin store and drying area with a raised bed which is currently filled with loose chippings. The snug bar can be accessed from Moncur Crescent. It is proposed to reopen an existing access which is currently blocked off along Moncur Crescent. The site is surrounded by flatted properties. Strathmartine Road and Moncur Crescent are both busy routes with double yellows and barriers on the footway.

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 relevant to the determination of this application:

Policy 1 Vibrant and Sustainable Communities seeks to safeguard the amenity of residential areas in terms of design as well as layout, parking and traffic movement, and noise and 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

The proposal raises issues relating to the Council's sustainability policies concerning the potential for noise and odour intrusion. These issues are discussed in greater detail below.

SITE HISTORY

There is no site history of direct relevance to the determination of this application.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and ten letters of objection were received from surrounding neighbours. Two of the letters had identical text but were signed by different neighbours. The grounds of objection are:

- Noise disturbance.
- Smell of smoke.

Ownership of communal area.

Security as a result of the new access from Moncur Crescent. This was bricked up due to previous break-ins. Patrons will have unrestricted access to the tenement through the public house rather than via the security door.

The shared garden area is not large enough for the proposal.

This proposal will encroach on the privacy of residents at 115 & 113 Strathmartine Road as customers will be overlooking the communal area.

One objector is concerned about environmental protection.

This proposal will create an unsightly appearance.

This will result in the loss of a safe play environment.

The relationship of this proposal to its surroundings.

This will lead to a devaluation of properties.

This may lead to a possible fire hazard.

Copies of the objection are available for inspection in the Members' Lounge and the issues are discussed in the "Observations" section below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards has highlighted concerns about noise problems from the proposal. The proposed development is designed to accommodate those patrons of the premises who wish to smoke. Accordingly this will encourage people to congregate in a specific area which will result in an increased noise burden to the surrounding flats. If Members are minded to approve the application a condition will be required to restrict noise levels within the application site.

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 of the Dundee Local Plan Review 2005 seeks to protect the environmental quality enjoyed by local residents. It is considered that the proposal, which is to form an external area for smokers, will result in an unacceptable level of noise for nearby residents. Patrons will congregate in a currently unused area during the opening hours of the public house and this will subsequently result in noise disturbance for adjacent residents. The provision of a jumbrella with heating and lighting as well as separate patio heaters will further encourage the use of the area over longer periods of time in all weathers. The site is surrounded by residential properties. There are flatted properties located directly above the public house. There are also flatted properties 6metres to the east and 7metres to the south west of the application site and it is considered that noise disturbance will be a potential problem for these residents. Other residents located 11m to the south east may also be adversely affected. The Head of Environmental Health and Trading Standards supports this view. Therefore the proposal does not comply with Policy 1.

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

Ten letters of objection were received from residents. The issues raised are discussed in detail below.

Noise disturbance

The majority of objections to this application are concerned about an increase in noise. As previously discussed the site is surrounded by residential properties. There are flatted properties located directly above the public house. There are also flatted properties 6metres to the east, 7metres to the south west and 11metres to the south east of the application site and it is considered that noise disturbance will be a potential problem for these residents. The site is currently a

shared communal area for drying and bin storage. This proposal will result in a number of people congregating in this specific area during the public house opening hours and an increase in noise levels to the detriment of the nearby residents. This objection is supported. It is considered that a condition to address these concerns would not be sufficient to support the application.

Smell

A number of objectors are concerned about the smell of smoke and not being able to use the drying area as a direct result of this proposal. It is considered due to the close proximity of residential properties the presence of this smoking area would have a detrimental impact on these properties in terms of smell. Although smell is considered to be an issue it is not considered to be significant to refuse this application.

Ownership

A number of objectors have stated that the proposal is to be located on a mutual drying green and bin storage area which is shared by the residents of 115 Strathmartine Road. The application plans show that the existing redundant bin store area will be removed and this will be replaced with a new fully enclosed fenced bin area to the north west of the smoking area. The existing communal drying area will be repositioned to the north of the smoking area. The applicant has provided documentation which illustrates the extent of ownership. From this information it would appear the applicant is the owner of this site. The issue of ownership is a civil matter rather than a planning matter.

Residential amenity and loss of amenity space

A number of objectors are concerned about the impact this proposal will have on residential amenity. As stated previously due to the proximity of residential properties the main area of concern with this proposal is the noise impact. It is considered that this proposal will have a detrimental impact in terms of noise on the residential amenity currently enjoyed by these neighbouring residential properties.

Two of the objectors have stated that as a result of this proposal children will lose a safe play environment. The communal area was landscaped by all

the residents to reduce the amount of annual maintenance. As a result of this proposal the communal area will be decreased in overall size from approximately 11metres x 8.3metres to 5.5metres x 8.3metres. These objections are supported. Policy 4 Appendix 1 of the Dundee Local Plan Review requires a minimum of 100sqm of useable private communal garden area or 10sqm per flat whichever is greater. As a result of this proposal the amount of amenity space will not meet the requirements of this policy.

Access

Concerns have been raised about the creation of an access from Moncur Crescent. It is suggested this access will compromise the security to the flatted properties as unrestricted access will be gained to the tenement block via the public house rather than the security entrance. A 2metre high fence to be erected between the smoking area and the communal area should restrict access to the tenement block. Therefore these objections are not supported.

Policy 53

One of the objectors feels the application is contrary to Policy 53 of the Dundee Local Plan Review 2005. The applicant has stated this area will not be a licensed area. Consequently, this application has not been considered as being contrary to Policy 53 Licensed and Hot Food Premises outwith the City Centre.

Devaluation

One of the objectors is concerned that this proposal will devalue the properties. This is not a planning matter.

Fire Hazard

Due to the proximity of household wheelie bins to the smoking area one of the objectors is concerned this may be a fire hazard. This is not a planning matter. It should be noted that before issuing a building warrant fire safety is considered.

From this examination it is concluded that the proposal would result in significant potential amenity problems in terms of noise, smell, proximity to residential dwellings and loss of amenity space.

Therefore, it is concluded from the foregoing that insufficient weight can

be accorded to any of the material considerations to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be refused.

Design

The development consists of the provision of a new door access on the west elevation to replace an existing window. This access will have ramp access. A double boarded fence (approximately 2metres in height) will be erected to divide the communal garden area from the proposed smoking area. Timber decking will be installed in the smoking area. This will be raised to an overall height of 350mm. An area within the site immediately to the south of the new link access between the snug bar and the smoking area will be slabbed using 900mm x 900mm sandstone colour concrete slabs. The remaining area will be in-filled with grey gravel. An existing rear access door along the northern boundary wall which is currently blocked off will be reinstated and increased in width to allow for access and to provide an emergency exit to and from Moncur Crescent. This door will be fitted with a push bar panic release bolt to the interior of the garden area a key access mechanism to the pavement side. One jumbrella measuring 3.5metres x 3.5metres will be provided in the main seating area within the smoking area. Two planters will be installed within the site to accommodate sea grass or bamboo planting. High level drink shelves are to be provided. These will be formed with brick tiers and a timber top shelf.

All new block work is to be wet dash rendered to match the existing and will be painted in sandstone/buff Dulux masonry paint.

It is considered the proposed design is appropriate for this location.

CONCLUSION

This proposal will encourage patrons to congregate which will result in increased noise and loss of amenity space to local residents. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy. The proposal is contrary to Policy 1 of the Dundee Local Plan Review 2005 due to the potential adverse impact on neighbouring

residents on the grounds of noise disturbance and loss of amenity space. The views of the objectors regarding noise and loss of amenity space are supported in these circumstances. It is recommended that planning permission be REFUSED.

RECOMMENDATION

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

Reason

- 1 The proposed change of use to an outdoor seated smoking area with jumbrella and fencing is considered to be contrary to Policy 1 "Vibrant and Sustainable Communities" of the Dundee Local Plan Review 2005 as the area will encourage patrons to gather and the resulting increase in noise and loss of amenity space will be detrimental to the environmental quality enjoyed by local residents. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to local plan policy.