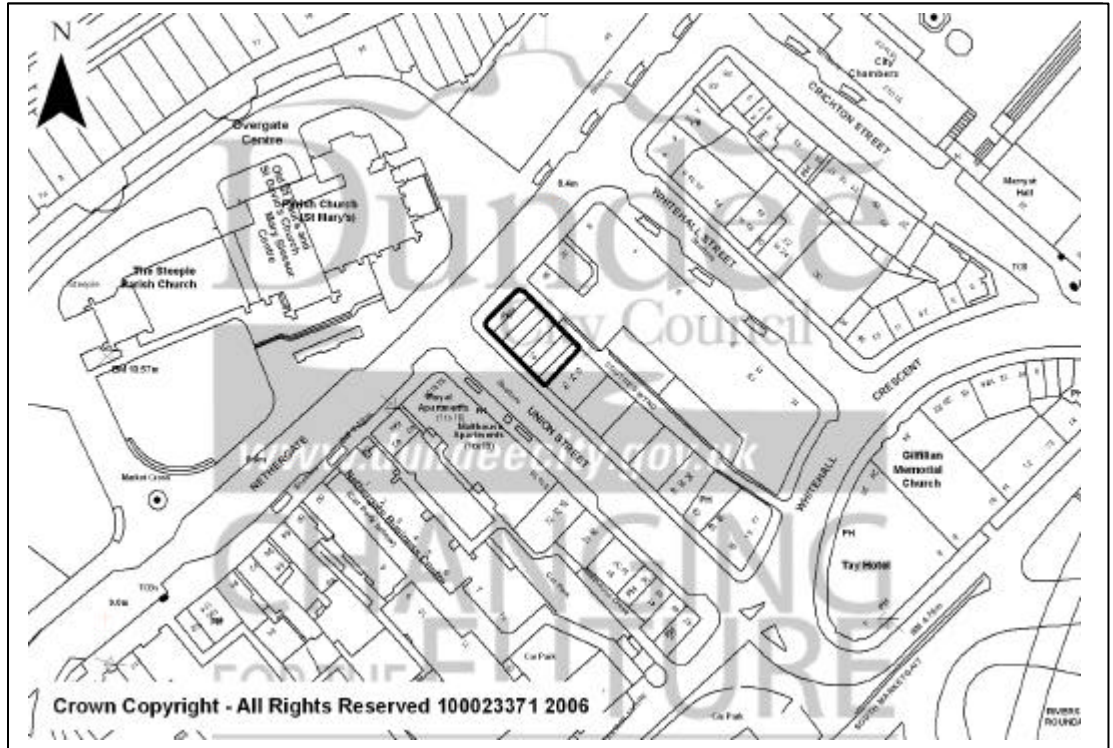


KEY INFORMATION

Ward Maryfield

Proposal

Erection of external canopies to north and west elevations

Address40 Nethergate
Dundee
DD1 4ET**Applicant**G & B Morrison
Trades House Bar
40 Nethergate
Dundee
DD1 4ET**Agent**The Lindsay Gray/Alan
Beaton Partnership
7 Ward Road
Dundee
DD1 1LP**Registered** 17 May 2007**Case Officer** Eve Jones

External Canopies Proposed to Trades Bar in Nethergate

The erection of external canopies is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

SUMMARY OF REPORT

- Planning permission is sought for the erection of external canvas canopies on the north and west elevations of this Category B listed public house to be 9.2 metres and 16.6 metres long. They are fixed to the building along the bottom section of the deep decorative fascia, immediately above the round headed, finely detailed arched windows.
- This early 19th century, classically-detailed former bank and commercial building is on the corner of Nethergate and Union Street.
- A previous application for a licensed seating area was refused and a glazed gazebo on the footway was approved by Committee on 30/08/2006 although the Council has refused to grant a Pavement Stopping-Up Order to enable this structure to be built.
- Dundee Local Plan 2005 - the proposals do not comply with Policy 60 - Alterations to Listed Buildings and Policy 61 - Development in Conservation Areas as the canopies will have a detrimental impact on the character and fabric of the building. For the same reasons they do not comply with NPPG 18 - Planning and the Historic Environment or the Memorandum of Guidance on Listed Buildings and Conservation Areas.
- 1 objection was received from a neighbouring resident on the grounds that the patrons who gather to smoke cause obstruction and a threatening environment.
- The Police Architectural Liaison Officer identifies the adverse impact on the effective operation of the Public Space CCTV system and the potential safety implications for other pedestrians due to obstruction of the footway.
- No detailed justification has been submitted for the need for the canopies but the agent has submitted historic photographs taken 100 years ago, showing canopies on this building. However at that time it was a shop with large windows and the canopies were an appropriate integral part of the facade at that time. There is no justification for the proposed canopies to be added to the current decorative facade of the Listed building.

RECOMMENDATION

It is concluded that the proposed development is contrary to Policy 60 Alterations to Listed buildings and Policy 61 Development in Conservation Areas of the Dundee Local Plan 2005. It is likely to adversely affect the effective operation of the Public Space CCTV system and have an impact on pedestrian safety. It also fails to comply with the terms of NPPG 18 Planning and the Historic Environment and the Memorandum of Guidance on Listed Buildings and Conservation Areas. It is therefore recommended that planning permission be **REFUSED**.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of external canvas canopies on the north and west elevations of this Category B listed public house. A single canopy is proposed to each elevation, the northern one being 9.2 metres long and the eastern one being 16.6 metres long. They will project 1.3 metres from the building and be a minimum of 2.3 metres above the footway. They are described as sun shades having a folding mechanism fixed to the building with a steel channel 6cm by 7cm located along the bottom section of the fascia, immediately above the arched windows. There is no indication of the number of fixings required to be inserted into the fascia of the building. They will be grey and wine in colour.

SITE DESCRIPTION

An early 19th century 4-storey and attic, classically-detailed former bank and commercial building, on the corner of Nethergate and Union Street. Sandstone and polished Peterhead granite characterise the ground floor with round-headed finely detailed arch windows to both elevations and a deep decorative fascia. The building was converted into a public house approximately 10 years ago and included new decorative glass and a well detailed scheme of decoration to enhance the external elevations. A licensed pavement cafe area, which has permission under the relevant licensing system during the summer months, currently operates on part of the footway on the Nethergate side of the building.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Environmental Resources Policy 5A: Historic Environment.

Dundee Local Plan 2005

The following policies are of relevance:

Policy 60 - Alterations to Listed Buildings.

Policy 61 - Development in Conservation Areas.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

NPPG 18 - Planning and the Historic Environment.

Memorandum of Guidance on Listed Buildings and Conservation Areas.

Non Statutory Statements of Council Policy

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



SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

SITE HISTORY

05/01031/LBC Proposed erection of canopy and folding glazed side panels on north elevation of building, the canopy was withdrawn from the application. The partner application 05/01048/FUL for the formation of a licensed seating area along the north elevation of the building was refused by Committee on 2 March 2006.

06/00404/FUL Erection of glazed smoking gazebo on the north side of the footway, north of the building was approved by Committee on 30 August 2006. The Council has refused to grant a Pavement Stopping-Up Order to enable this structure to be built.

07/00711/FUL Planning application for formation of pavement cafe. This application was submitted on

31 July 2007 and is currently invalid as it lacks required information.

07/00423/LBC The partner Listed Building application is elsewhere on this agenda.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and 1 objection was received from a neighbouring resident on the grounds that the sunshades will encourage more patrons to gather to smoke, increasing the obstructions they cause to passing pedestrians, creating a fire hazard and a threatening environment at the entry to the upstairs flats. Copies are available in Members lounges and the objection will be considered in the Observations below.

CONSULTATIONS

The Director of Support Services advises that a pavement cafe license has been approved for four tables on the eastern half of the Nethergate frontage only. This comprises less than half of the length of the proposed canopy.

The Police Architectural Liaison Officer advises "Assessment made of the possible impact of such a large scale addition to

the streetscape on the scope and range of the Public Space CCTV system.

The range of Camera 22 Union Street/Whitehall Street would be compromised in Union Street and the junction with Nethergate and lose the ability to zoom into the doorway of the Trades House, where any trouble is likely to occur.

Camera 21, Nethergate/Marketgait would be compromised to a lesser degree but would also lose some coverage of Nethergate.

A second concern is experience has shown that patrons wishing to stand outside such premises to smoke etc. tend to take over the whole area where provision such as awnings are in place as opposed to staying close to the building line when they are not.

As the proposed awnings will project 1.3m or almost two thirds of the pavement width, there is the likelihood of foot traffic being forced out onto Union Street or Nethergate, both streets carrying two-way traffic with a

high volume of buses and large commercial vehicles.

There is a potentially serious public safety issue there."

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

Dundee and Angus Structure Plan 2001-2016

Environmental Resources Policy 5A: Historic Environment. The text to the policy points out that "The diverse character and quality of the historic environment provides Dundee and Angus with a distinctive sense of place". The Policy then states that "Local Plans will establish a policy framework to safeguard and enhance important features of the area's historic environment". This will include policies to "protect the site and setting of listed buildings" and "protect and enhance Conservation Areas". These policies are included as follows:

Dundee Local Plan 2005

Policy 60: Alterations To Listed Buildings - "The alteration of a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character. Alterations will not be permitted where the works would diminish the architectural integrity of the building or its historic interest."

The canopies or sunshades are proposed to be installed along the lowest part of the decorated fascia, immediately above the arched windows and pilasters on the main frontage. They are 9.2 and 61.6 metres long and cover the full width of the windows on each elevation. They will

have a detrimental impact on the character and fabric of the building for the following reasons.

Character - the canopies will obscure the upper parts of the arched windows which are a feature of this building and the capitols on the tops of the pilasters between the windows. They will be an over-dominant feature which will detract from and diminish the architectural and historic character of the building.

Fabric - the canopies are large and will be heavy. They are proposed to be anchored by a steel channel 6cm by 7cm bolted into the building. There are no other fixings indicated. The fixings will require to be substantial to support such structures especially in windy or wet conditions. Such an addition to the decorative fascia of this building will be likely to have a detrimental impact on its fabric which would diminish the architectural integrity of the building.

For the above reasons, the proposal will not comply with Policy 60.

Policy 61: Development In Conservation Areas - "Within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features and the historic pattern of streets and spaces, as identified in the Conservation Area management plans to be advanced in the near future."

This is a listed building of significant townscape interest given its prominent corner location on the Nethergate, opposite the City Churches. It has been converted with great success including the addition of decorative glass to the fine arched windows and a sympathetic and well detailed scheme on the fascia. It is considered that the proposed canopies or sunshades, by reason of their size, scale and location will not preserve or enhance the existing character of the surrounding area to which this building makes a significant contribution.

Therefore the proposal fails to comply with Policy 61.

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:

NPPG 18 - Planning and the Historic Environment - Para 42 notes that "where a planning proposal affects a listed building or its setting, an important material consideration is the desirability of preserving the building, its setting, or any features of architectural or historic interest which it possesses." It goes on to state that there should be a presumption against any development that adversely affects the character of a listed building". With respect to Conservation Areas, "the planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the designated area". If any development conflicts with this objective, there should be a presumption against granting permission.

It is considered for the reasons given above that the proposals fail to comply with these requirements and should be refused.

Memorandum of Guidance on Listed Buildings and Conservation Areas. The Memorandum states as follows:

Section 1.2.12 Shopfronts And Commercial Frontages - "Traditional external sun blinds (also referred to as awnings) above shop windows may be appropriate in some cases but as a general rule should only be considered where the display window to be protected may receive direct full sunlight for several hours a day and regularly contains perishable goods." It is considered that there is no such justification for canopies or sunshades on a public house. Less than half of the smaller canopy will cover the pavement cafe area which has permission on the Nethergate elevation of the building.

The Memorandum goes on to advise; "If a window meets these criteria careful thought must then be given to finding acceptable methods of accommodating the blind box. The architectural treatment and detailing of the facade must be acknowledged and respected, and every effort made to protect the character of the front of the building. For example, the blind box should not mask or cut through or across detailing which contributes to the interest and quality of the facade." As noted above, the proposal masks

the upper decorative section of the windows and pilasters.

It is considered that the proposal fails to meet the criteria for an acceptable canopy on a listed building as detailed by the Memorandum.

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Section 59 of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the planning authority shall have special regard to the desirability of preserving the building or its setting. It is considered, for the reasons set out above, that the proposal will not preserve the building.

It is also concluded from the foregoing that the statutory duty set out in Section 64 of the Act, to preserve or enhance the character or appearance of the Conservation Area would not be satisfied by the approval of this proposal.

Supporting Justification

No detailed justification has been submitted for the need for the canopies. However, the agent has submitted historic photographs of the Nethergate, taken 100 years ago, showing canopies on this building.

Other photographs from the Council owned archives show the building before its current ground floor facade was added. It was a shop with large windows and the canopies were an appropriate integral part of the facade at that time. There is no justification for the proposed canopies to be added to the current decorative facade of the Listed building.

Objections

One objection was received from a neighbouring resident on the grounds that the sunshades will encourage more patrons to gather to smoke, increasing the obstructions they cause to passing pedestrians, creating a fire hazard and a threatening environment at the entry to the upstairs flats.

It is agreed that the provision of canopies will be likely to encourage patrons to gather to smoke with the resulting likely impact on residents of increased noise and smell and that pedestrians and residents in this busy

location may have to negotiate such groups. Accordingly, the objection is supported for these reasons.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the refusal of planning permission in accordance with the provisions of the development plan.

Design

As noted, the proposed canopies would have a detrimental impact on the appearance and fabric of the Listed Building.

CONCLUSION

It is concluded that the proposed development is contrary to Policy 60 Alterations to Listed buildings and Policy 61 Development in Conservation Areas of the Dundee Local Plan 2005. The Police Architectural Liaison Officer identifies the adverse impact of such structures on the effective operation of the Public Space CCTV system and the potential safety implications for other pedestrians due to obstruction of the footway. It also fails to comply with the terms of NPPG 18 Planning and the Historic Environment and the Memorandum of It is therefore recommended that planning permission be refused.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

Reasons

- 1 The proposed development is contrary to Policy 60 - Alterations to Listed Buildings of the Dundee Local Plan Review 2005 as it does not preserve or enhance the architectural character of the building and will diminish its architectural integrity. 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 61 - Development in Conservation Areas of the Dundee Local Plan Review 2005 as it does not preserve or enhance the character of the area. There are no material

considerations of sufficient strength to justify the granting of planning permission contrary to the policy.

- 3 The proposed canopies are likely to have an adverse impact on the effective operation of the Public Space CCTV system on both Union Street and Nethergate frontages and will also be likely to encourage patrons to obstruct part of the footway which would have a detrimental impact on the safety of pedestrians.