

KEY INFORMATION

Ward West End

Proposal

Change of use, with alterations, of former church to café/restaurant at ground floor level and orthodontic surgery at first floor level

Address

36 South Tay Street
Dundee
DD1 1PD

Applicant

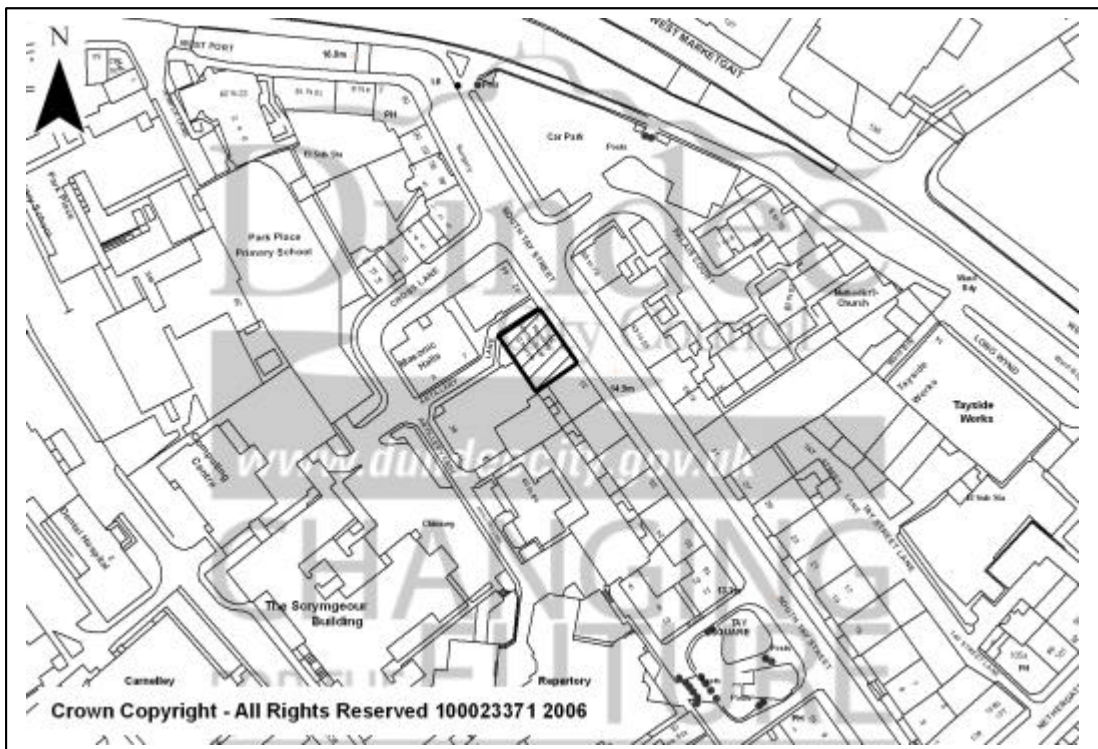
Farnell Estates Ltd
Gamefield
Ochertyre Estate
By Crieff
Perthshire
PH7 4JR

Agent

Nicoll Russell Studios
111 King Street
Broughty Ferry
Dundee
DD5 1EL

Registered 18 June 2007

Case Officer D Gordon



New uses sought for former church

The change of use from church to café/restaurant and orthodontic surgery is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development is considered to comply with the relevant policies of the adopted Local Plan. The proposals will serve to preserve this important building and will enhance the status of the area as the Cultural Quarter for the city. The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought to change the use of a vacant church to a café/restaurant at ground floor level and an orthodontic surgery at first floor level. Minor alterations to the appearance of the building are also proposed. Planning permission to use the property for Class 2 offices was previously granted permission by the Council in December 2006.
- Two letters of objection and a letter of representation have been received. One letter of objection and the letter of representation are considered to be invalid in planning terms as they raise issues relating to commercial business competition. The remaining objection raises matters relating to traffic and pedestrian safety.
- It is considered that the proposals are in accordance with the relevant development plan policies for the area. The site is located within the emerging Cultural Quarter which encourages the establishment of such uses.
- There are no material considerations, including the views of the objectors, which would justify the refusal of this application contrary to the policies of the Local Plan.

DESCRIPTION OF PROPOSAL

The application seeks permission to change the use, with alterations, of a former evangelical church to a cafe/restaurant (Class 3 use) at ground floor level and an orthodontic surgery at first floor level.

The ground floor will accommodate kitchen facilities, seating, toilets and a small office. Both the entrance to the cafe/restaurant and the first floor surgery will be provided from existing entrance doors at this level.

At first floor level it is proposed to provide treatment rooms, staff and administration space, waiting areas and other similar facilities associated with a surgery.

Minor alterations to the external appearance of the building are proposed on the north and west elevations, including the provision of a flue in the roof on the west side of the property.

SITE DESCRIPTION

The site is located on the west side of South Tay Street and to the south of Artillery Lane. The property is a 2 storey, rectangular plan, 5 bay former church that is a Category C listed building. The building accommodates white harled walls and a slate roof.

The surrounding area accommodates a variety of uses that are typical of an edge of city centre location including retail, restaurant and public houses, commercial, leisure and residential.

The site is located within the Cultural Quarter and the University Conservation Area.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Environmental Resources Policy 5A: Historic Environment. This requires the protection, conservation and enhancement of the city's historic environment.

Dundee Local Plan Review 2005

The following policies are of relevance:

POLICY 1: VIBRANT AND SUSTAINABLE COMMUNITIES

The City Council will promote vibrant communities, encouraging 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 affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.



POLICY 17: CULTURAL QUARTER

Within the Cultural Quarter uses and developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged. Proposals which would extend and improve the area's representation of small scale independent and speciality retailers will also be encouraged. Proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance its visitor attraction.

Where appropriate, proposals outwith the area but capable of meeting these requirements may also be supported.

POLICY 52: RESTRAINT ON LICENSED PREMISES IN THE CITY CENTRE

Within the City Centre as defined on the Proposals Map, care will be taken to avoid an excessive concentration of public houses and nightclubs, particularly those in close proximity to residential areas. As such, there will be a presumption against the establishment of licensed premises (excluding restaurants) in the City Centre:

- a with a total floor area in excess of 300 square metres; or
- b any more than one in five units in a single frontage where the combined floor area is in excess of 300 square metres.

This restraint will not apply in the Cultural Quarter although the development of night clubs will be carefully controlled so that they do not dominate its character and disrupt the Quarter as a daytime visitor environment.

POLICY 59: ALTERNATIVE USES FOR LISTED BUILDINGS

Suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric must be undertaken carefully and sensitively and have minimum impact on the architectural and historic interest, character and setting of the building. Reference should be made to other policies in the Plan.

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 City Council will provide specific supplementary guidance on the following: window and door alterations, advertisements, shopfronts, roller shutters, treatments to masonry and painting and use of materials.

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.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

National Planning Policy Guideline 8 (Revised): Town Centres and Retailing. This NPPG encourages planning authorities to consider diversification of uses within town

centres including an appropriate mix of uses such as restaurants, banks and building societies in order to provide services in the centres.

National Planning Policy Guideline 18: Planning and the Historic Environment. This NPPG sets out the Governments planning policies in relation to the historic environment with a view to its protection, conservation and enhancement.

Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 (Historic Scotland).

Non Statutory Statements of Council Policy

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

SUSTAINABILITY ISSUES

The proposal seeks to re-use a vacant listed building for Class 2 (office) and Class 3 (cafe/restaurant) uses. There are no specific sustainability policy implications arising from this application.

SITE HISTORY

06/00998/COU - Change of Use of Former Church to Office Accommodation - Approved 6th December 2006

06/00996/LBC - Alterations to Listed Building - Approved 6th December 2006.

PUBLIC PARTICIPATION

The applicants have undertaken the statutory neighbour notification procedure. In addition, the proposal was advertised in the local press, under Section 34 of the Act, as a bad neighbour development (preparation and sale of hot food)

Two letters of objection to the proposals and a letter of representation have been received. One of the letters of objection and the letter of representation raise issues relating to commercial competition between similar businesses and consequently are considered to be invalid in planning terms. The second letter of objection raises concerns about the impact the proposed cafe/restaurant use will have on the road traffic and pedestrian safety of the area.

Comment on the potential impact of the proposals on road traffic and pedestrian safety is offered in the 'Observations' section of this report below. Copies of the above letters can be viewed in the Members Lounges.

CONSULTATIONS

The Council's Head of Environmental Health and Trading Standards has advised that a condition be attached to any permission granted that limits the noise from all mechanical and electrical plant and services in order to protect the environmental quality currently enjoyed by surrounding residential properties.

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

The application seeks permission to change the use of a former evangelical church to a cafe/restaurant at ground floor level and an orthodontic surgery on the upper floor. The application also requests minor alterations to the north and west elevations of the building. The Members are advised that the use of the first floor for a Class 2 office use was granted permission by the Council on 6th December 2007.

With regard to the proposed cafe/restaurant use, it is generally recognised that licensed premises, particularly Class 3 uses such as restaurants, cafes and snack bars, can make a positive contribution to the diversity and vitality of the city centre making them attractive for visitors and residents alike. The primary consideration for this type of use in this city centre location is Policy 52 (Restraint on Licensed Premises in the City Centre) of the Dundee Local Plan Review 2005. This Policy, while welcoming licensed premises in the

city centre, advises against an over concentration of such facilities particularly in areas close to residential properties. However, this Policy further states that this restraint will not apply in the Cultural Quarter and does not include restaurant uses which are exempt from this restriction. Consequently, it is considered that the proposed use does not contravene Policy 52 of the Plan. However, existing residential properties are located in the local area and it is intended to attach conditions to any permission granted requiring that certain noise mitigation measures are put in place in order to avoid any detrimental impact the proposals may have on the environmental quality currently enjoyed by the occupiers of these properties.

In light of the above, it is considered that the proposals do not conflict with the aspirations and requirements of Policy 17 (Cultural Quarter) of the Local Plan Review.

With regard to Policy 59 (Alternative Uses for Listed Buildings), the re-use of the vacant building for the purposes proposed is considered to be compliant with the requirements of the policy.

Policy 60 (Alterations to Listed Building) states that alterations to a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character. The proposed alterations to the building are relatively minor in nature and have already been accepted by this Council through the approval of listed building application 06/00996/LBC on 6th December 2006 for alterations to form office accommodation.

Policy 61 (Development in Conservation Areas) requires that all development proposals within conservation areas will be expected to preserve or enhance the character of the surrounding area. It is considered that the proposed re-use of the building together with the minor alterations proposed to the external appearance of the building will have a positive impact on the appearance and the setting of the local area.

Taking account the above, it is concluded that the proposals are to be welcomed in the area and that the environmental quality of the occupiers of the surrounding properties will not be prejudiced by the introduction of the uses proposed. Consequently, the

development does not contravene the terms of Policy 1 (Vibrant and Sustainable Communities) of the Local Plan.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

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

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

a Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities, in considering applications that affect listed buildings, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which they possess. Section 64 of the Act requires that the Council have special regard to any buildings or other land in a conservation area and special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the area.

This matter has already been considered in the assessment of the proposed development under Policies 60 and 61 of the Dundee Local Plan Review 2005 above and it was concluded that the proposal would not detract from the appearance of the listed building or adversely impact on the setting of the conservation area. Consequently, it is considered that statutory duty set out in these Sections of the Act is discharged.

The Memorandum of Guidance on Listed Buildings and Conservation Areas is of relevance and supports alternative uses for listed buildings to ensure their protection. The proposal is not considered to be in conflict with the Memorandum.

View of the Objectors.

The valid objection to the application raised concerns about the impact the proposed cafe/restaurant aspect of the proposals would have on road traffic and pedestrian safety in the area. It is considered that due to the city centre location of the site and the limited size of the proposed ground floor facility, the vehicular and pedestrian traffic generated by the use would not be so significant as to adversely impact on the safety of the area.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the refusal of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

The treatment of the property is handled sensitively and will not detract from the appearance or setting of the listed building.

CONCLUSION

The proposal complies with the relevant policies of the development plan. The use of the ground floor for a cafe/restaurant use is considered to be consistent with the aspirations of the Cultural Quarter. The use of the upper floor as a Class 2 office use has previously been supported through the grant of consent for a surgery, by this Council, in December 2006.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 The total noise from all mechanical and electrical services and plant shall not exceed NR 35 as measured 1 metre external to the facade of adjacent residential accommodation and shall not exceed NR 25 within any adjoining residential property.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To protect the occupiers of the surrounding residential properties against any noise generated by the uses hereby granted permission.