

**KEY INFORMATION**

**Ward** West End

**Proposal**

Change of Use from HMO to Restaurant/Takeaway with Alterations and Extensions

**Address**

2 Roseangle  
Dundee  
DD1 4LR

**Applicant**

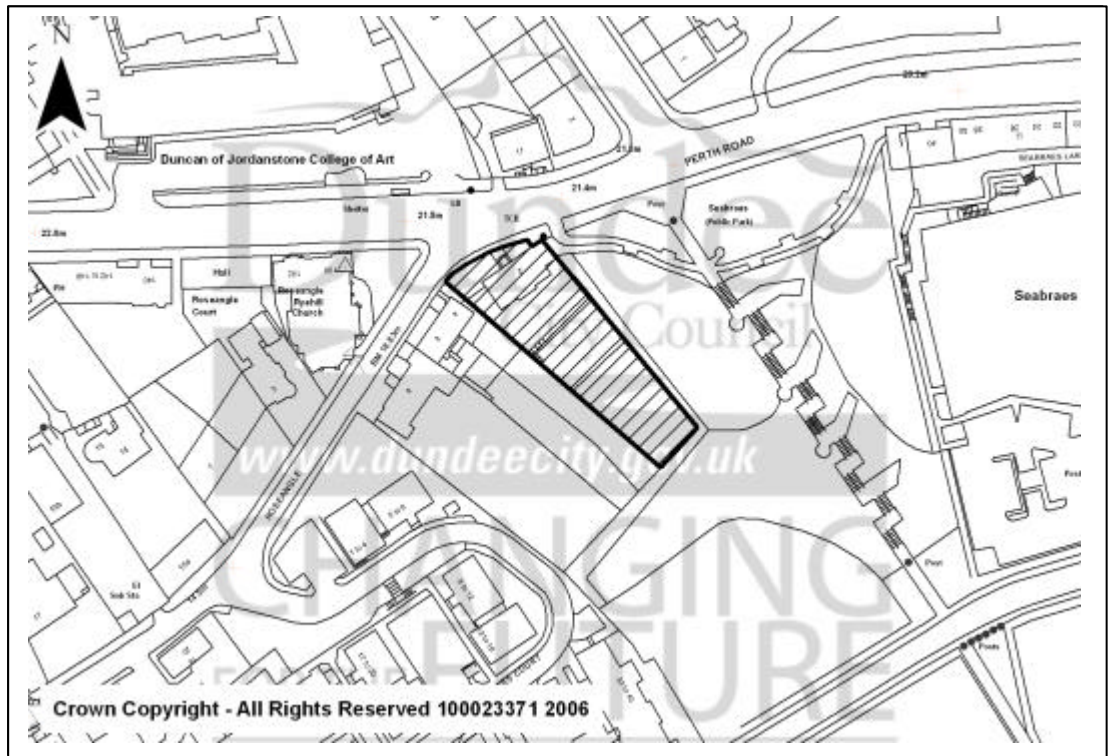
H K Developments  
2 Christian Road  
West Ferry  
Dundee  
DD5 1NE

**Agent**

Peter Inglis Architects  
Unit 3  
Prospect 111  
Gemini Crescent  
Dundee DD2 1SW

**Registered** 12 July 2007

**Case Officer** D Gordon



## Proposed New Restaurant at Roseangle

A change of use from an HMO to a Restaurant/Takeaway is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation.

**RECOMMENDATION**

The proposed scheme will result in the re-use of a neglected listed building that forms an important role in the setting and appearance of the surrounding conservation area. The proposal is considered to be contrary to the development plan. However, safeguarding the future of the property is considered to be an overriding priority. The application is recommended for **APPROVAL** with conditions

**SUMMARY OF REPORT**

- The proposal seeks permission to change the use of a vacant property to a licensed restaurant with an ancillary take away facility. The building is a Category B listed building and is located within the West End Lanes Conservation Area.
- The proposal is not fully compliant with Policy 1 and Policy 53 of the Local Plan Review by virtue of the proximity of the use to neighbouring residential properties and the failure to provide associated off street parking facilities.
- The application has been advertised in the local press under Section 34 of the Act (bad neighbour). There have been no objections from members of the public to the proposals.
- It is considered that there are material considerations, including safeguarding the appearance of the property and the setting of the conservation area, that are sufficient in weight to set aside the requirements of Policy 1 and Policy 53 and offer support for the development in this instance

## DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of a House in Multiple Occupation (currently vacant) to a restaurant with an ancillary take-away facility at 2 Roseangle, Dundee. The proposal will also involve minor alterations to both the outside and inside the building.

At lower ground floor it is intended to provide a kitchen, stores, an office and staff lockers and toilets.

At ground floor level there will be the main entrance to the building, the main dining area and a small ancillary cocktail bar. To the east side of the property the former garage / store extension is to be converted to a small carry out facility.

At first floor level there will be further seating and toilet provision.

The main external alteration will be the reinstatement of the glazed dome on the roof of the building. Internally, several new partition walls are to be erected and new four doorways are to be formed. A pitched roof is to be provided over the flat roof single storey extension that is located on the east side of the building.

There are no associated off street car parking spaces or servicing arrangements proposed due to the location of the property and the steep sloping characteristics of the site

## SITE DESCRIPTION

The property is located on the south side of the junction of Roseangle and Perth Road. The stone built villa is pitched roof in design and accommodates a 2 storey frontage onto Roseangle. Due to a dramatic drop in ground levels running through the site, the south side of the building is 3 storeys in height.

A large rear garden area, that is part terraced, runs south towards the former railyards. This garden contains a number of mature trees.

A variety of uses are evident in the surrounding area. To the east are the recently transformed Seabraes Park and the steps leading down to the emerging Digital Media Park. To the north is the University of

Dundee campus area and to the west are further education related building and licensed premises.

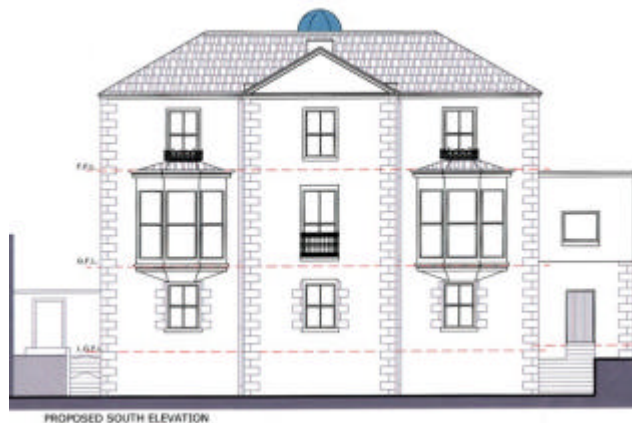
The property is a Category B listed building and the site is contained within the West End Lanes Conservation Area.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Environmental Resources Policy 5A:



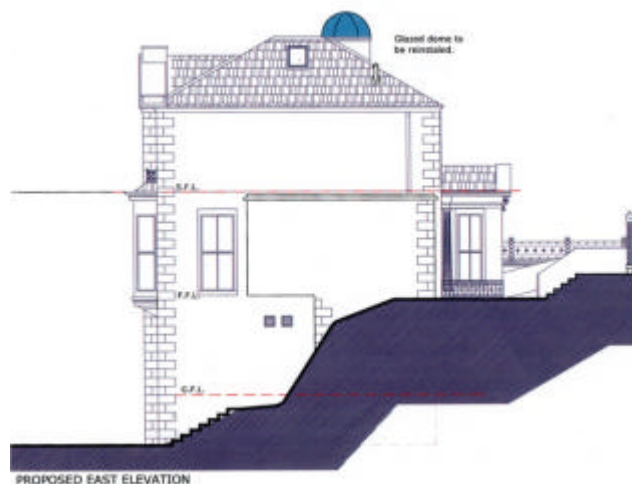
Historic Environment.

### 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 53: LICENSED AND HOT FOOD PREMISES OUTWITH THE CITY CENTRE

In general, outwith the District Centres no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food is acceptable:

- a within 30 metres of existing and proposed housing if the outlet does not exceed 150m<sup>2</sup> gross floorspace (excluding cellar space) and;
- b within 45 metres if the 150m<sup>2</sup> figure is exceeded.

In the District Centres some relaxation of the above controls on distance from residential property may be appropriate. However, proposals for hot food takeaways other than those outlined below, will not be permitted in premises directly adjoining (i.e. directly above or to either side) residential property which is not within the control of the takeaway proprietor/operator.

Where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above requirements these may be permitted subject to:

- a the hours of operation being limited to between 7.00 am and 7.00 pm, and,
- b the hot food not requiring to be prepared on the premises and only requiring heating by means of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.

#### 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:

NPPG 18: Planning and the Historic Environment sets out the framework of dealing with planning applications that affect listed buildings and conservation areas.

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 does not raise any concerns in relation to the Council's sustainability policies.

**SITE HISTORY**

88/13235/D - C/U of University Accommodation to Offices - Refused 23/05/1988

88/13928/D - C/U of House to Guest House - Refused 13/02/1989

89/14082/D - C/U House to Student Accommodation - Refused - 26/12/1993

97/23154/D - C/U of House to Restaurant - Withdrawn 12/03/1998

06/00730/COU - C/U of HMO to Dwelling House - Approved 23/10/2007

06/00739/LBC - Alterations to Listed Building to Form House - Approved 21/11/2007

07/00671/LBC - Alterations to Listed Building to form Restaurant. Application found elsewhere on this

**OBSERVATIONS**

In accordance with the provisions of Section 25 of the Act the Committee is required to consider taking into account the history of the building

- 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 (Vibrant and Sustainable Communities) - This Policy seeks to minimise the affect of developments on the environmental quality of residents by virtue of design, layout, parking and traffic movement issues, noise and smell.

The proposal under consideration involves a conversion of a Category B

listed building to a restaurant with an ancillary takeaway facility. This property is a detached villa that occupies a prominent location on the Perth Road / Roseangle junction. To the north there are education buildings of the University, to the east is the landscaped area of Seabraes and to the south is the Digital Media Park (former rail yards area). To the west are University buildings that have previously been used for residential purposes.

Further to the west is a public house (Laings Bar) that accommodates 3 flatted properties.

With regard to the layout and design of the proposed restaurant, it is considered that these will not adversely impact on the environmental qualities of the surrounding residents by virtue of the minimal alterations proposed to the building. However, these matters are discussed in greater detail in Policies 60 and 61 below. With regard to noise and smell, it is recognised that the use proposed may result in a potential to adversely impact on surrounding occupiers. It is intended to attach conditions to any permission granted that would offer control over such matters.



agenda.

**PUBLIC PARTICIPATION**

The applicants have completed the statutory neighbour notification procedure. In addition, the proposals have been advertised in local press under Section 34 of the Act (bad neighbour development). No objections to the proposals have been received.

**CONSULTATIONS**

There have been no adverse comments received from any of the consultees.

The steeply sloping nature of the site makes it extremely difficult to provide any associated off street car parking spaces or off street servicing facilities for the new use. Due to the location of the property at the junction of Perth Road and Roseangle, this failure to provide parking / servicing facilities has the potential to adversely impact on the road traffic safety of the area. In addition, the proposal may also result in an increased pressure on the limited off street and on street parking spaces in the local area to the detriment of existing surrounding occupiers. This fails to fully satisfy the requirements of Policy 1.

With regard to the proposed use as a restaurant and its potential effect on the environmental qualities of the surrounding residents, this matter is discussed in full under the terms of Policy 53 below.

In light of the above, it is considered that the proposal does not fully comply with Policy 1 of the Plan

Policy 53 (Licensed and Hot Food premises Outwith the City Centre) - This policy states, amongst other things, that no licensed premises and premises selling hot food is acceptable within 30 metres of existing or proposed housing if the outlet does not exceed 150m<sup>2</sup> gross floorspace and within 45 metres if the 150m<sup>2</sup> figure is exceeded. The proposed use is to be provided over 3 floors of the property and measures in excess of 400m<sup>2</sup>. Consequently the 45 metres consideration distance is applicable in this instance.

The adjacent building located to the west of the application site (4 & 6 Roseangle) is a detached, stone built property that has been divided into separate semi-detached residential units. This property is currently on the market for sale. To the west of this is a licensed premise (formerly Laings Bar) that also accommodates 3 flats. This property is currently undergoing renovation works. The residential properties located at 3 Roseangle (to the west side of Roseangle / Ryehill Church) are located some 59 metres from the application site and the nearest student housing in Seabraes Court is some 50 metres distant. It is concluded from the above that the proposal does not fully comply with Policy 53. However, it is considered that the application site is contained within an area where there are a

variety of uses that are typical of an edge of city centre location. While the distances between the application site and the neighbouring residential properties are not ideal, it is unlikely that the proposals would have a significant adverse impact on the environmental qualities of these residents by virtue of nature of the proposed use and the detached characteristics of the building in question.

Policy 59 (Alternative Uses for Listed Buildings) - It is considered that the use of the building as a restaurant and ancillary takeaway facility has the potential to safeguard the future of the property. In this respect, it is concluded that the proposal does not contravene the aspirations of this Policy.

Policy 60 (Alterations to Listed Buildings) - This Policy states that 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.

The building that is the subject of this application is recognised as a fine classical villa in a prominent location. It is particularly notable for its strong contribution to the streetscape and the quality of both its original design and the alterations of 1880, particularly the rich decorative plasterwork and mosaic floor in the entrance hall. Although a victim of long term neglect, the character of the former house is relatively unaltered by 20th century interventions. The applicants have advised that a limited amount of internal alterations are to be undertaken and the principal and most decorative rooms are to be left intact. The alterations proposed are acceptable and consequently, the application is considered to be in accordance with Policy 60 of the Plan.

Historic Scotland have been involved in informal discussions on the details of the intended conversion works and have, to date, raised no objections to the proposed development.

Policy 61 (Development in Conservation Areas) - This policy requires that all development proposals within conservation areas will be expected to preserve or enhance the character of the surrounding area. In light of the comments in Policy 60 above, it is concluded that the

proposals are in full accordance with the requirements of 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:

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 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.

b The Memorandum of Guidance on Listed Buildings and Conservation Areas is of relevance and supports alternative uses for listed buildings to ensure their protection. As noted above, Historic Scotland have been involved in pre-application discussions and the partner Listed Building application will be referred to Historic Scotland for ratification should the application be approved.

The building the subject of this application has lain empty for some time and is currently showing signs of disrepair and neglect. Its prominent location in the local area only highlights this situation. It is accepted that the proposal does not fully comply with the requirements of the local plan

with regard to parking and required distances from residential properties. However, this is considered to be a significantly important building in the area and it future requires to be secured. While its use as a licensed restaurant may not be ideal in development plan terms, the proposal will provide potential longevity of the property. Consequently it is considered that the above material considerations, the terms of which are confirmed by Policies 59, 60 & 61 of the Plan, are given significant weight in the determination of this application.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the grant 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 listed building is handled sensitively and any interventions are restricted to that necessary to provide a quality facility without prejudice to the character and integrity of the property. The applicants have also advised that works on landscaping the extensive garden area to the south side of the building are also to be undertaken.

### CONCLUSION

This particular property, due to its position at the junction of Perth Road and Roseangle, occupies a prominent location in the local area. It has suffered from an unfortunate history, is currently vacant and is now beginning to show signs of significant neglect to the detriment of not only the building itself but also to the character and setting of the surrounding conservation area. Its use for a facility that will secure its future is to be welcomed albeit that the proposal does not fully adhere to the requirements of the development plan. However, this is a fine example of a Category B listed building that has remained relatively untouched despite the various uses that have occupied the property in recent years. In order to preserve this important local building it is recommended that support of the application should be offered in this instance.

### 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 samples of the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples
- 3 Total noise from all mechanical and electrical services shall not exceed NR35 as measured 1 metre external to the facade of the nearest residential accommodation.
- 4 Before the use commences, the proposed restaurant and take away facility shall be insulated to achieve sound attenuation in accordance with a scheme approved by the planning authority.
- 5 All amplified music and vocals from the site shall be so controlled as to be inaudible within adjacent residential properties.
- 6 A scheme that details the proposed ventilation / extraction system for the uses hereby granted permission shall be submitted to and approved in writing by the planning authority prior to the commencement of works. For the avoidance of doubt the approved scheme shall be made operational prior to the first use of the restaurant and take away facility.
- 7 That the take away facility shall operate only as an ancillary operation to the main use of the restaurant. For the avoidance of doubt, the facility shall only operate during the opening times of the restaurant and shall, at no time, operate independently of the restaurant.

### Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

- 2 In order to safeguard the appearance of the statutorily listed building and to improve its architectural appearance.
- 3 To protect local residents from any noise generated as a result of the uses hereby granted consent.
- 4 To protect residents from noise generated by the uses proposed.
- 5 In order to protect residents from any noise generated from the use hereby granted permission.
- 6 To protect adjacent occupiers from any smell generated by the use hereby granted permission.
- 7 The use of this small extension as an independent hot food carry-out facility would not normally be granted permission due to its size and location. This facility is being supported only as an ancillary use to a restaurant that is considered important in the safeguarding the future of this listed building.