

KEY INFORMATION

Ward Maryfield

Proposal

Change of use of part of nightclub to fast food diner and takeaway

Address

25-29 Cowgate
Dundee
DD11 2HS

Applicant

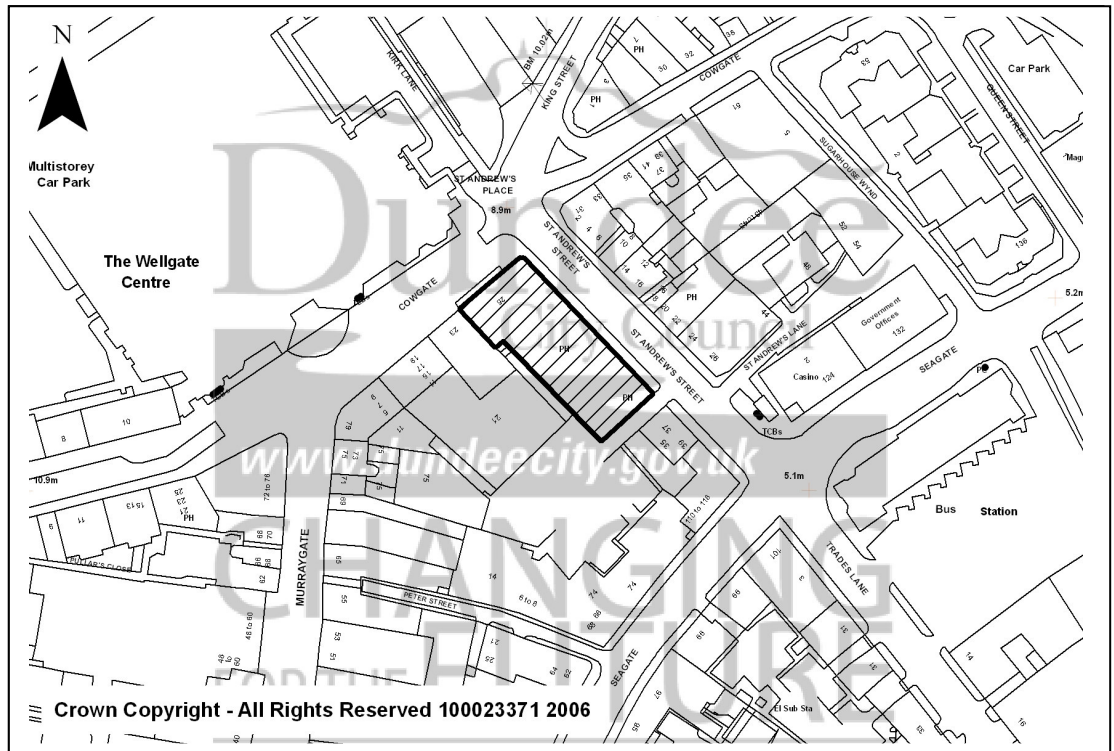
Auld Reekie Pub Co Ltd
Belsize Road
Broughty Ferry
Dundee
DD5 1NS

Agent

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

Registered 13 Sep 2007

Case Officer C Walker



New Fast Food Diner Proposed in Cowgate

A change of use of part of a nightclub to a fast food diner and takeaway is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development complies with the policies of the Development Plan, will not adversely impact on residential amenity and will preserve the appearance of the listed building and of the surrounding area. The application is recommended for **APPROVAL** with conditions.

SUMMARY OF REPORT

- Planning permission is sought to change the use of part of the ground floor of the Deja Vu nightclub premises to a restaurant and takeaway.
- This impressive red sandstone building lies within the Central Area Conservation Area and is Category B listed.
- 2 letters of objection were received from nearby residents concerned about noise and litter.
- The proposal complies with the provisions of the development plan, will preserve the character and appearance of the listed building and the wider conservation area and will not adversely impact on residential amenity.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of part of the ground floor of the premises to a restaurant and takeaway. The plans indicate a floor area of some 75m² being set aside for the proposed use with the entrance through existing doors at the corner of Cowgate and St Andrews Street. The plans also indicate an internal door between the nightclub and the restaurant/takeaway. The plans indicate seating for 45 customers.

SITE DESCRIPTION

The site comprises the Deja Vu nightclub premises at the junction of Cowgate and Seagate. This impressive red sandstone building lies within the Central Area Conservation Area and is Category B listed. It was originally constructed as the Kings Theatre. It was subsequently used as a cinema and then a bingo hall and in more recent times has been a nightclub.

The site is surrounded with commercial premises, some with upper floor residential uses on St Andrews Street, Seagate and Peter Street. There is a large private car park to the south west of the site accessed from St Andrews Street.

The nightclub has a license to operate until 3.30 am and nearby takeaways at St Andrews Street (The Feasting Fox) and Seagate (Corfu Kebabs) operate until 4.00am.

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 site is not allocated for any specific purpose in the adopted Local Plan. It is within the defined City Centre area but falls just outwith the City Centre retail area. Policy 52 of the Plan, which restricts licensed premises in the City Centre in order to protect residential amenity, does not apply to restaurants.

Policy 60 Alterations to Listed Buildings requires such alterations to have regard to the preservation or enhancement of the listed building.

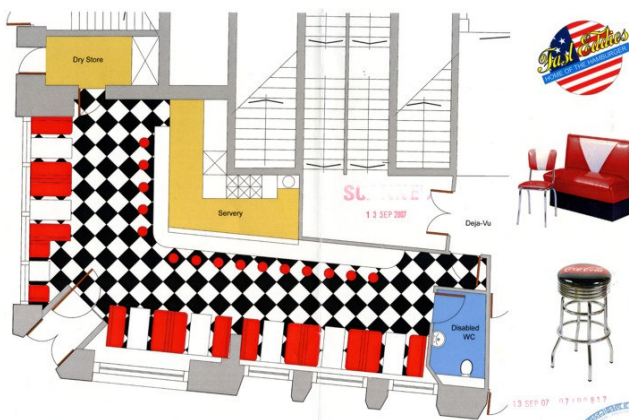
Policy 61 Development in Conservation Areas requires new development to preserve or enhance the character of the surrounding area.

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

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

SITE HISTORY

Planning permission was granted to change the use of this building (last used as a bingo hall) to a public house and live music venue in August 1997 - application 97/22700/D refers.

Permission was subsequently granted to change the use of the premises to a nightclub in September 1999 - application 99/24205 refers.

In March 2002 permission was granted to convert the basement and part of the ground floor to a separate public house - application 01/30488/COU refers.

There is a current application to form a casino in the upper floors of the

premises - application 06/00306/COU refers.

Finally there is a current application for listed building consent for this development, the Report on which appears elsewhere in this Agenda - application 07/00842/LBC refers.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposal was advertised as a bad neighbour development. 2 letters of objection were received from nearby residents. They are concerned about noise (particularly at night time) and litter. They state that there are existing problems in the area due to the high number of pubs and restaurants and due to poor waste management in the rear courtyard area by the applicant company.

Copies of these letters are available for inspection in the Members' Lounges and the issues are discussed in the "Observations" section below.

CONSULTATIONS

No adverse comment on the development was received from Statutory Consultees.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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 60 requires proposals to have regard to the enhancement of listed buildings and Policy 61 requires development proposals to preserve or enhance the character of conservation area.

These policies are broadly similar in their aims, seeking to promote good

design and protect the listed buildings and conservation areas. In this case, the proposals involve the conversion of a listed building which also lies in the Central Area Conservation Area. The conversion of the listed building involves little change to its character and appearance. Initially it had been proposed by the applicants to paint this section of the building in a different colour to the rest of the building but following discussions the applicants have indicated a willingness to leave the building in a single colour. It is considered that on this basis the development will not have an adverse impact on either the listed building or the Central Area Conservation Area.

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:

(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 it possesses.

This matter has already been considered in the assessment of the proposed development under Policy 60 of the adopted Local Plan and it was considered that the proposal would preserve the character and appearance of the listed building.

(B) Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities, in considering applications in conservation areas to have special regard to the desirability of preserving or enhancing the character or appearance of that area.

This matter has already been considered in the assessment of the proposed development under Policy 61 of the adopted Local Plan and it was considered that the proposal would preserve the character and appearance of the conservation area.

(C) The Concerns of Objectors - the objectors are concerned about noise, particularly at night time, and litter. They live in flats at Peter Street which are almost 80 metres, as the crow flies,

from the entrance to the proposed restaurant and takeaway. The existing night club premises operate until 3.30 am seven days a week and takeaways in the area, 2 of which are much closer to the objectors' flats, operate until 4.00am. Levels of noise at night time are elevated because of premises which already operate late at night and it is considered that the proposed development will make no material difference to this situation. Indeed because the premises provides seating for up to 45 customers, it is possible that the development could have a beneficial impact in terms of keeping people off the street and within the confines of the premises. However it is accepted that if the restaurant/takeaway operated after the night club closed that this could result in noise and disturbance continuing beyond 3.30 am and it is therefore suggested that if Members are minded to approve this application that it should be required to close for business not later than 2.30am. It is considered that with this safeguard there should be no unacceptable impact on residential amenity by reason of noise or disturbance.

The concern about litter and refuse relates to an alleged existing problem in the rear courtyard area. The fear is that the proposed use will generate additional refuse and will therefore exacerbate the problem. It is considered that if Members are minded to approve this application a planning condition could be imposed seeking to ensure that adequate arrangements are made for refuse storage and collection.

It is concluded from the foregoing that insufficient weight can be accorded to the concerns of the objectors such as to justify the refusal of planning permission. It is therefore recommended that planning permission be granted with conditions in accordance with the provisions of the Development Plan.

Design

The conversion of the listed building involves little change to its character and appearance and the design of the development will preserve the character and appearance of both the listed building and the wider conservation area.

CONCLUSION

The proposed development complies with the policies of the Development Plan, will not adversely impact on residential amenity and will preserve the appearance of the listed building and of the surrounding area.

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 Details of the arrangements for refuse storage and disposal connected with the proposed change of use shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 3 The use hereby permitted shall not operate between 02.30 and 07.00 hours.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In order to make adequate arrangements for the storage and disposal of refuse in the interests of residential amenity.
- 3 To ensure that the development does not result in night time noise and disturbance in the interests of residential amenity.