

**KEY INFORMATION**

**Ward** West End

**Proposal**

Change of use from office to Bar/Restaurant and external alterations

**Address**

9 & 10 Tay Square  
Dundee  
DD1 1PB

**Applicant**

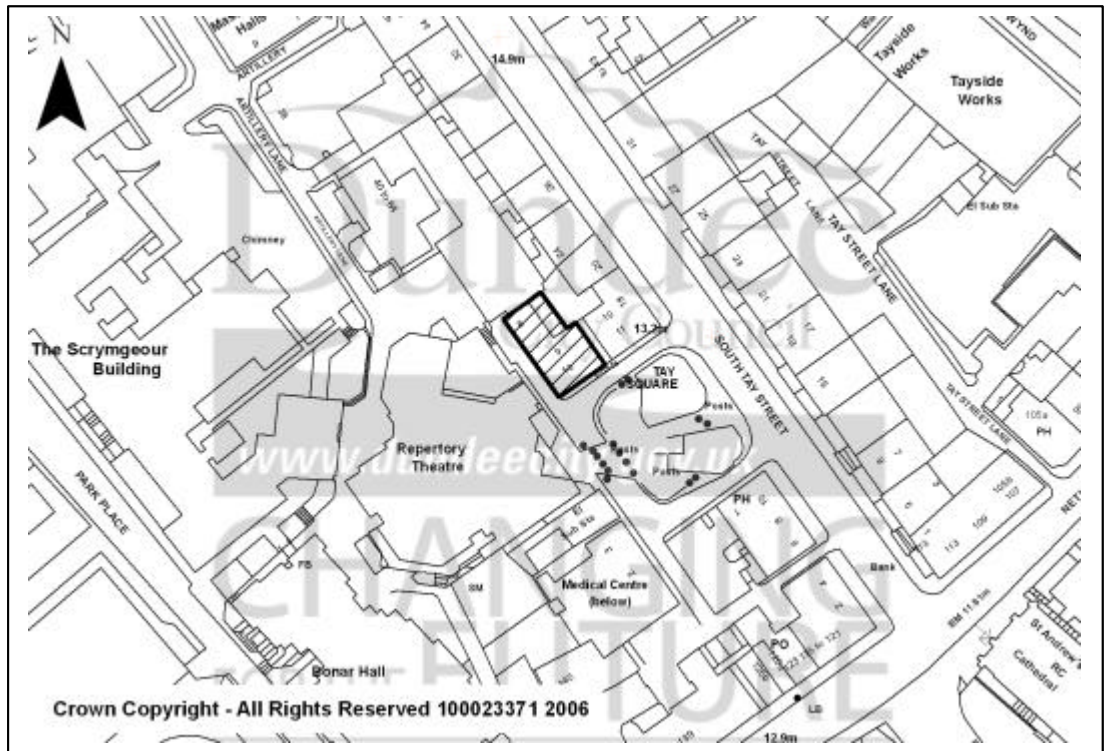
Gillian Veal  
The Parlour Cafe  
Westport  
Dundee

**Agent**

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Media  
Castle Chambers  
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Dundee  
DD1 3AF

**Registered** 5 Dec 2007

**Case Officer** B Knox



## Proposed New Restaurant in Tay Square

A change of use from office to Bar/Restaurant 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 therefore recommended for **APPROVAL** subject to conditions. >

**SUMMARY OF REPORT**

- Planning permission is sought to change the use of a vacant office to a bar/restaurant at ground floor and basement level. Some alterations to the appearance of the building are also proposed.
- Two letters of objection have been received to the application. They raise issues in relation to bin storage, ventilation and delivery/servicing arrangements.
- It is considered that the proposals are in accordance with the relevant development plan policies for the area. The site is within the Cultural Quarter which encourages the establishment of such uses.
- There are no material considerations, including the views of the objectors, that would justify a decision contrary to the provisions of the development plan.

## DESCRIPTION OF PROPOSAL

The application proposes the change of use of an existing office into bar/restaurant with associated external alterations to the building. The basement would be occupied by a bar with associated seating with toilets and store areas. The ground floor would be occupied by a restaurant with a bar/servery and kitchen. Access would be taken from Tay Square with level access from the rear courtyard via a new access ramp.

## SITE DESCRIPTION

The property is located on the north side of Tay Square close to the junction with South Tay Street. It forms the ground floor and basement premises of a category B listed three and a half storey building. The properties are Georgian in style and finished in natural stone with slated roofs. It is situated in the University Conservation area in the heart of the Council zoned "Cultural Quarter."

## 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

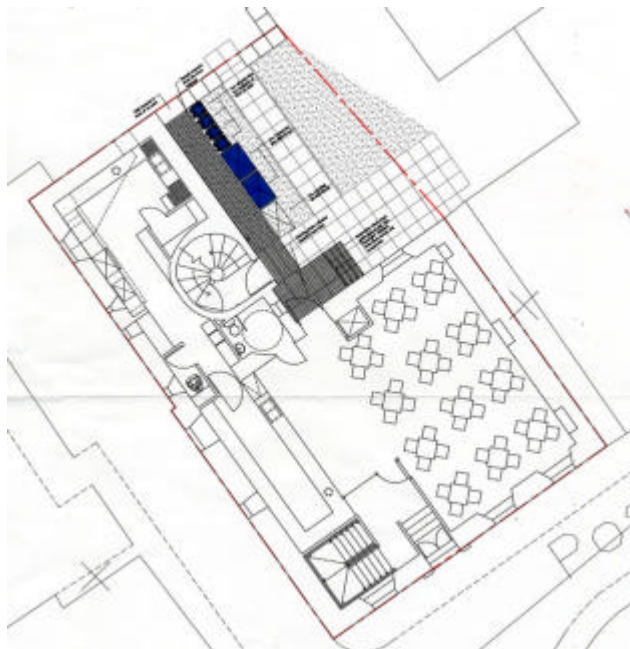
The following policies are of relevance:

Policy 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 300m<sup>2</sup>; or
- b any more than one in five units in a single frontage where the combined floor area is in excess of 300m<sup>2</sup>.



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

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

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

## SITE HISTORY

There is no site history of relevance for the application site. The adjacent property, no 11 Tay Square was granted permission for the Change of Use from an office to a bar restaurant in 2004. This has been carried out and

the property is now in use as a bar restaurant.

## PUBLIC PARTICIPATION

The Statutory Neighbour Notification procedure was carried out at the time of the original submission and two letters of objection were received which raised the following concerns:

Concerns that the courtyard area will become a 'bin storage area'

Concerns regarding the method of ventilation to the property with regards to the appearance and effectiveness.

The premises will require considerable servicing and how can this be achieved when there is only a single carriageway road with no stopping.

## CONSULTATIONS

The Council's Head of Environmental Health and Trading Standards has advised that a condition be attached to any permission 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.

It was also recommended that a condition be attached to ensure that mitigation measures as detailed in paragraph 6 of the submitted NIA dated the 6 March 2008 be implemented.

## 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 for the change of use of an office to a bar/restaurant at basement and ground floor level. The application also seeks permission for minor alterations to the

interior and exterior of the building to facilitate the change.

With regard to the proposed bar/restaurant use, it is generally recognised that licensed premises can make a positive contribution to the diversity and vitality of the city centre, making them attractive to 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 uses close to residential properties. However, this Policy further states that this restraint will not apply in the Cultural Quarter. 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 residential occupiers.

In light of the above, it is considered that the proposals do not conflict with the requirements of Policy 17 (Cultural Quarter) of the Dundee Local Plan Review 2005.

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 Buildings) 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. At the time of the original submission of the application, it was intended to install a large extract flue running up the entire length of the gable of the building to provide kitchen ventilation. The applicant's agent was advised that given the buildings category B Listed status and location within the conservation area, this would be unlikely to receive support. This has been amended to an alternative system of extract which will have a minimal physical effect upon the appearance of the building. The proposed alterations

to the exterior of the building are relatively minor in nature, and will preserve the character and appearance of the building.

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 and the external alterations to the building will have a positive impact on the appearance and the setting of the local area.

Taking into 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 proposed use.

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:

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.

These matters have already been addressed 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 the 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.

Views of the objectors

Concerns that the courtyard area will become a 'bin storage area'

The change of use will result in the addition of three large bins to the rear courtyard area. It is not considered that this is an excessive level for the size of the property.

Concerns regarding the method of ventilation to the property with regards to the appearance.

The issues in relation to the ventilation have been addressed in the Observations section above. The views of the objector are dismissed.

The premises will require considerable servicing and how can this be achieved when there is only a single carriageway road with no stopping.

The application has been assessed in terms of the servicing requirements and it is considered that there is sufficient room in this area to allow for servicing of the property.

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 being carried out sensitively and will not detract from the appearance or setting of the listed building.

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## CONCLUSION

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The proposal complies with the relevant policies of the development plan. The use is considered to comply with the aspirations of the Cultural Quarter.

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## RECOMMENDATION

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

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.

## Reason

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