

KEY INFORMATION

Ward West End

Proposal

Change of use from unlicensed cafe to a licensed restaurant

Address

208-210 Perth Road
Dundee DD1 4JY

Applicant

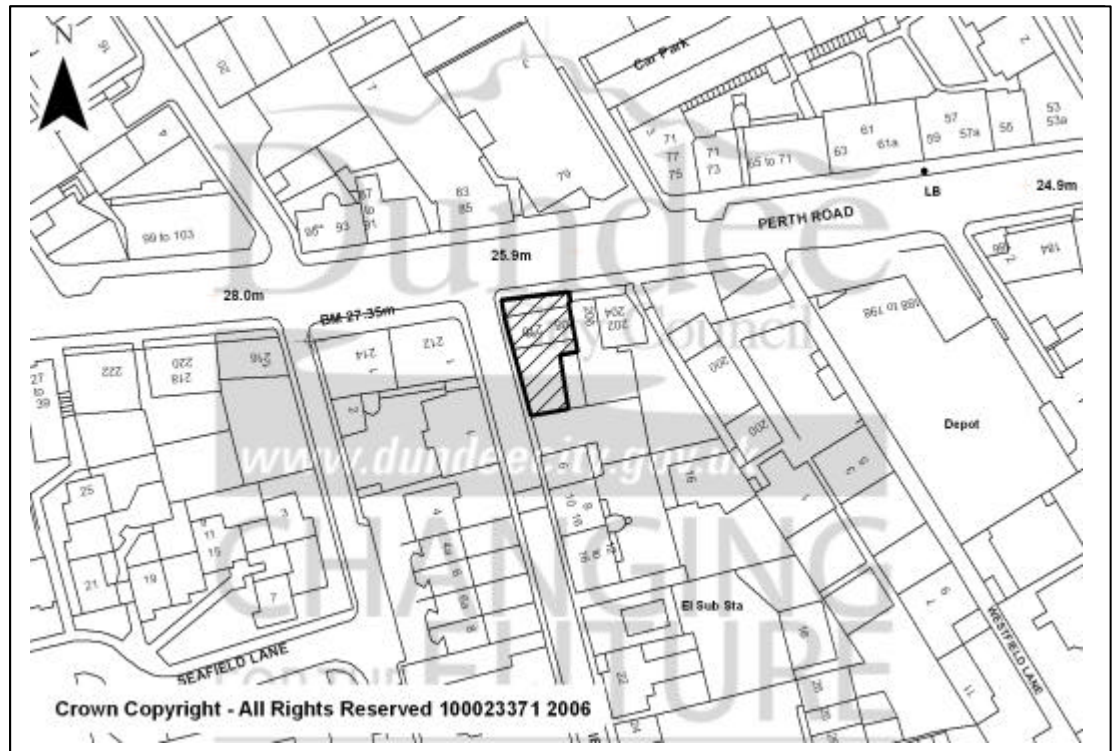
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Agent

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Registered 11 Feb 2008

Case Officer Eve Jones



Proposed Licensed Restaurant in Perth Road, Dundee

A change of use from an unlicensed cafe to a licensed restaurant is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

The application fails to meet the minimum distance requirements in Policy 53 but it is considered that in this case the material considerations of the small size of the unit, its location and previous use as a cafe are sufficient to justify approval of the application. The single objection is not supported.

Recommendation
APPROVE subject to conditions

SUMMARY OF REPORT

- Planning permission is sought for the change of use of an existing unlicensed cafe to a licensed restaurant. The restaurant will be 52m², the majority of which will be the seating area with a small kitchen and toilets.
- The site lies on the south side of Perth Road adjacent to an existing restaurant. The premises is the ground floor of a two storey with attic traditional stone building with slate roof. The upper floor of the building is in residential use.
- Dundee Local Plan 2005 - Policy 53 Licensed and Hot Food Premises outwith the City Centre and Policy 61 Development in Conservation Areas are relevant. The proposal does not meet the Policy 53 minimum distance to residential properties.
- One objection was received from a nearby neighbour on grounds of lack of parking. However the existing use of the premises is a cafe and there is no proposed increase in its accommodation for customers, simply a change to a licensed restaurant.
- The applicant's agent has submitted a statement of justification which is supported. It is considered that in this particular case, the material considerations of the size of the proposed restaurant, the previous use as a cafe and the proximity of the site to the District Centre of Perth Road is sufficient to justify approval of the application contrary to Policy 53.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of an existing unlicensed cafe to a licensed restaurant. The restaurant will be 52m², the majority of which will be the seating area with a small kitchen and toilets. The hours of operation will be 1100 hours - 1400 hours and 1700 hours - midnight Tuesday to Sunday and will be closed on Monday. Limited outdoor seating will be provided to the front of the premises at lunchtimes and early evenings in fine weather.

SITE DESCRIPTION

The site lies on the south side of Perth Road adjacent to an existing restaurant. To the west there are shop units with flats above. On the north side of Perth Road there is a mix of commercial properties with flats above and immediately opposite lies the converted Ryehill Church which is now in residential use. Perth Road is a busy major distributor road into the City Centre with a wide range of retail and commercial premises which form a busy and varied District Shopping Centre. There are a number of public houses, restaurants, hot food take aways and cafes along the length of Perth Road from the University to the Sinderins junction.

The premises is the ground floor of a two storey with attic traditional stone building with slate roof. The building is set down below the street level and is accessed by steps to the front and side on to a lower terrace area in front of the building behind protective railings. The upper floor of the building is in residential use.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 2005

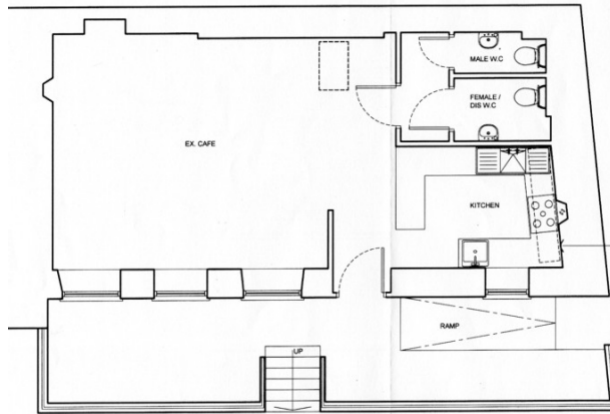
The following policies are of relevance:

Policy 53 Licensed and Hot Food Premises outwith the City Centre.

Policy 61 Development in Conservation Areas

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application.



EXISTING PLAN SCALE 1:50

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

03/00915/COU Planning permission was granted for the change of use of a shop to an unlicensed cafe on 23 February 2004. The permission was restricted by condition to a range of foods which limited the amount of frying and grilling to ensure that residents in the flat above were not adversely affected by cooking smells.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a development contrary to the Development Plan. One objection was received from a nearby neighbour on grounds of lack of parking. Copies of the objection are available in Members' Lounges and the

issues raised will be addressed in the Observations below.

CONSULTATIONS

There were no adverse comments from consultees.

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

Policy 53 Licensed and Hot Food Premises outwith the City Centre.

The policy restricts the location of hot food premises within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres. There is one flat above the application property.

The policy also allows some degree of relaxation in District Centres or where opening hours can be restricted. The site does not lie within the District Centre although its boundary includes premises on the north side of Perth Road opposite the site. The proposed opening hours are 1100 hrs to 1400 hrs and 1700 hrs to midnight on Tuesday to Sunday. They will be closed on Mondays. The exceptions do not apply in this case and therefore the application does not comply with this policy.

Policy BE11 Development in Conservation Areas.

The policy requires that developments complement and enhance the character of the area. The proposal does not propose any changes to the exterior of the premises and signage may be the subject of a further application. The proposal has no adverse impact on the Conservation Area.

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:

Objection

The objector lives in Seafield Lane and states that as there is a serious lack of parking for residents in Seafield Road and Seafield Lane, the provision of another restaurant on Perth Road will increase parking problems.

However the existing use of the premises is a cafe and there is no proposed increase in its accommodation for customers, simply a change to a licensed restaurant. It is likely that there will be no significant increase in the number of customers which it can accommodate although it will be open later in the evening. Patrons will be aware that parking is an issue in this popular location and the objection is not sufficient to justify refusal of the application.

Justification

The applicant's agent has submitted a statement of justification which is available in Members' lounges on the following grounds:

- The Perth Road is home to numerous public houses, restaurants, cafes and hot food take aways, many of which operate in close proximity to residential properties.
- The adjoining property is a fully licensed restaurant operating without any restrictions. It also has residential property immediately above.
- These two properties form part of a group of commercial properties on the south side of Perth Road but for some reason are not included within the boundary of the District Centre as defined in the Local Plan.
- The floor area of 50 square metres includes the kitchen and toilet areas with seating for no more than 24 customers. This is approximately 30% of the size limit of 150 square metres in the District Centre which directly adjoins the property.

- Policy 61 - Development in Conservation Areas seeks development that will complement and enhance the character of the area. The Perth Road is Dundee's "Gastro-quarter" with a reputation for high quality food based operations. This should be encouraged to develop the City's cosmopolitan credentials.
- The business has operated for more than 4 years as a cafe with no known complaints from neighbouring properties.

It is concluded that the premises are relatively small scale and forms part of a group of commercial premises which are outwith but immediately adjoin the District Centre. The site lies on Perth Road which does have a wide range of food and drink related premises. Perth Road also has heavy vehicle and pedestrian traffic for long periods of the day.

It is considered that in this particular case, the material considerations of the size of the proposed restaurant, the previous use as a cafe and the proximity of the site to the District Centre of Perth Road is sufficient to justify approval of the application contrary to Policy 53. It is considered that the use will not adversely affect the existing amenities enjoyed by the residents of the flat above the application site subject to specific restrictive conditions on hours of operation and the provision of musical entertainment.

Design

There are no design issues in respect of this proposed change of use.

CONCLUSION

It is considered 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 concluded from the foregoing that the proposed development would provide an acceptable additional restaurant on the Perth Road subject to the control of its operation by appropriate conditions. Recommendation - APPROVE subject to conditions.

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 All amplified music or vocals shall be so controlled as to be inaudible within adjacent residential accommodation.
- 3 The hours of operation shall be 1100 hours - 1400 hours and 1700 hours - midnight, Tuesday to Sunday.
- 4 The mechanical ventilation system shall be operated and maintained in accordance with the manufacturer's recommendations.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of the amenities of the occupiers of nearby properties.
- 3 In the interests of the amenities of the occupiers of nearby properties.
- 4 In the interests of the amenities of the occupiers of nearby properties.