

**KEY INFORMATION**

**Ward** The Ferry

**Proposal**

Change of use from office to a piano bar and restaurant, also erection of a fire escape

**Address**

314-316 Brook Street  
Broughty Ferry  
Dundee

**Applicant**

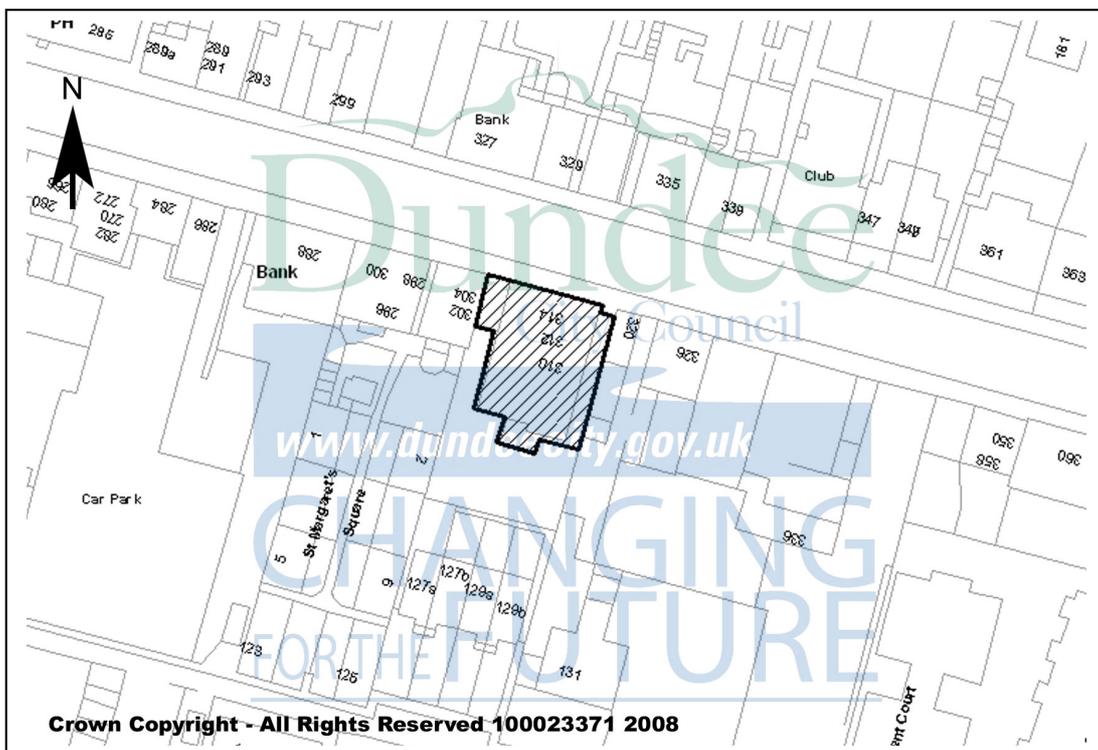
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**Agent**

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**Registered** 8 Feb 2008

**Case Officer** P Macari



# Piano Bar Proposed for Broughty Ferry

Change of use from office to a piano bar and restaurant is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation.

**RECOMMENDATION**

The proposed development is considered to meet the criteria of Policy 53 on the Dundee Local Plan Review 2005. The concerns of the objectors are not supported. Therefore planning permission is recommended for approval subject to conditions.

**SUMMARY OF REPORT**

- Planning permission is sought to change the use of 314- 316 Brook Street from an office to a piano bar and restaurant and erect an enclosed external fire escape to the eastern gable of the building.
- Policy 53 (Licensed and Hot Food Premises Outwith the City Centre) of the Dundee Local Plan Review 2005 is relevant to the outcome of this planning application.
- Given the nature of the proposed change of use, this application was advertised as a bad neighbour development in the Dundee Evening Telegraph. Two letters of representation have been received raising concerns of noise disturbance, parking problems, over provision of licensed premises and anti-social behaviour.

## DESCRIPTION OF PROPOSAL

This application seeks planning permission to change the use of the first floor of 314-316 Brook Street from an office to a piano bar and restaurant and erect an external fire escape of the eastern gable of the building. The proposed Piano Bar and Restaurant shall operate between the hours of 12.00pm and 12.00am Monday to Sunday.

The existing use of the application site is a Class 2 office. The premises have been partitioned to form five private office rooms, a large meeting room, two store rooms, male and female WC's, a kitchen and a large print room. The office and meeting rooms are situated to the front of the building with the remaining rooms located to the rear.

It is proposed to remove the partition walls in the front of the building leaving an open plan bar/restaurant area and redevelop the rear wing of the building to form a servery and respective male and female toilets. Access to the proposed piano bar and restaurant will be taken from the existing stairwell of Brook Street. It is proposed to erect an external fire escape on the eastern gable of the building. The fire escape will be enclosed and finished in materials matching the existing building. No other external alterations to the building are proposed.

It is the applicant's intention to apply for public house license should planning permission be granted for the proposed development.

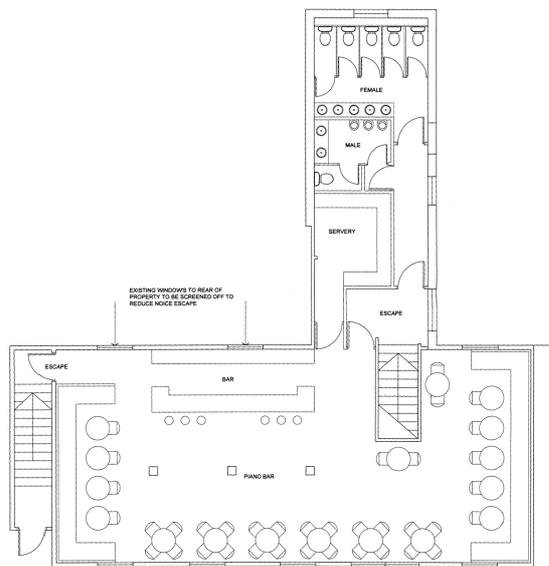
## SITE DESCRIPTION

The application site comprises a two storey terraced building situated on the southern side of Brook Street. The building presently adjoins 302-304 Brook Street, a three storey terraced tenement style building to the west. The ground floor of the adjoining building is used for Class 1 purposes with 1st and 2nd floors comprising residential flats. 302 - 304 Brook Street is a stone built building with a pitched roof finished in natural slate. The building has uniform window

openings on the 1st and 2nd floors with the window types varying from painted timber framed sliding sash and case units to brown and white PVCU framed double glazed hopper units. The ground floor commercial unit has traditional timber framed glazed shop front with the surrounding stonework painted dark green and a timber



painted fascia sign. There are buildings similar to 302 Brook Street on the opposite side of the road.



To the east the site is bound by a single storey hot food takeaway. The building is of a traditional hipped roof design with white painted wetdash rendered walls. The frontage of the hot food takeaway is finished in red tiles with an aluminium framed double glazed window unit and door centrally positioned.

The existing building is of recent construction and design. The building is two storeys high with a mansard roof finished in brown concrete roof tiles. The ground floor of the building

has timber framed windows surrounded by natural stone facing bricks and white roughcast pillars that are capped by fascia panel that stretched the length of the length of the building. The buff coloured fascia panel forms a boundary between the ground and first floor with the later being finished in white roughcast with buff banding around the window openings. There are decorative steel railings located in front of the glazed frontage.

Access to the rear of the building is through a pend situated between 302 and 314 Brook Street. The rear of the premises is split to form an area for storage and refuse to the ground floor bar/restaurant and an area of car parking and refuse storage to the existing 1st floor office. These areas are split through a 1.8m high timber fence which forms a boundary between the adjacent hot food takeaway and 314-316 Brook Street as well as the southern boundary between the application site and the rear gardens of a newly built terrace of two storey dwellings.

## 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 - 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 30m of existing and proposed housing if the outlet does not exceed 150m<sup>2</sup> gross floorspace (excluding cellar space) and;
- b within 45m 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 (ie 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 7.00am and 7.00pm, 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.

### **Scottish Planning Policies, Planning Advice Notes and Circulars**

SPP8 Town Centres and Retailing sets out the framework for protecting town centres. It refers to a number of factors including encouraging a diversity of uses throughout the day and evening, encouraging commercial leisure and entertainment uses and also setting out the role of Local Plans and the possibility of distinguishing between primary and secondary frontages.

### **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 planning history of relevance to the outcome of this application.

## **PUBLIC PARTICIPATION**

The applicant has certified that the required statutory neighbour notification procedure has been carried out. Given the nature of this application, a bad neighbour development advert was placed in the Dundee Evening Telegraph.

Two letters of representation have been received from 3rd parties raising concerns of:

- Noise Disturbance
- Parking Problems
- Over Provision of Licensed Premises
- Anti-social Behaviour

Copies of these letters can be viewed in the member's lounge.

## **CONSULTATIONS**

Environmental Health and Trading Standards have raised concern over the possibility of late night/early morning noise disturbance from the proposed piano bar and restaurant. The applicant has submitted a noise impact assessment to the satisfaction of Environmental Health and Trading Standards providing the mitigation measures detailed in Section 7 of the noise assessment are 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 first floor level. The application also seeks permission for minor alterations to the exterior of the building to form an external emergency exit.

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 district centres, making them attractive to visitors and residents alike. However, given the mixture of residential and commercial uses within district centres licensed premises can often impact upon the level of amenity afforded to neighbouring residential premises. The primary consideration for this type of use in Broughty Ferry District Centre is Policy 53 (Licensed and Hot Food Premises Outwith the City Centre) of the Dundee Local Plan Review 2005.

This policy states, amongst other things, that no licensed premises and premises selling hot food is acceptable within 30m of existing or proposed housing if the outlet does not exceed 150m<sup>2</sup> gross floorspace and within 45m metres if the 150m<sup>2</sup> figure is exceeded. The proposed use is to be provided at first floor level and measures in excess of 15m<sup>2</sup>. Consequently the 45m consideration distance is applicable in this instance.

The adjoining building located to the west of the application site (302-304 Brook Street) is a mid terraced, stone built tenement property that has been divided into commercial units on the ground floor and residential units above. The residential properties are all occupied. To the east of the site is a detached single storey hot food takeaway and on the ground floor of the application site is a pub/club that benefits from late night operating hours till 1.00am. On the northern side of Brook Street opposite the application site are three hot food takeaways and a public house all operating until 12.00am throughout the week. The residential properties (located at 302-304 Brook Street) adjoin the application site at first floor level with other residential properties located 12m from the rear of the premises and 7m from the front on the opposite side of Brook Street. While Policy 53 stipulates that licensed premises selling hot food with a floor area greater than 150m<sup>2</sup> must not be situated within 45m of residential properties there is provision within Policy 53 to relax this control where appropriate. 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 quality enjoyed by neighbouring residents. Given the surrounding uses most notably licensed premises and hot food takeaways and their location in relation to residential properties it is concluded that, while the proposal does not fully comply with Policy 53 a relaxation is permissible as the impact upon residential amenity generated from the proposed bar/restaurant will be no more intense than existing. This is demonstrated by the results of the noise impact assessment and the required mitigation measures that will be implemented by way of planning condition should the Committee be mindful to grant planning permission.

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:

#### *Views of the Objectors*

Two letters of representation have been received from neighbouring residents concerned about noise disturbance, on street parking problems and over-provision of licensed premises as well as anti-social behaviour.

Concerns of on street parking problems are not considered significant as there are on street car parking spaces delineated in the immediate vicinity of the application site as well as an abundance of public car parks in close proximity to the site. It is considered that during the hours of operation the surrounding car parking facilities will not be stretched to capacity and therefore sufficient car parking facilities will be available to patrons of the proposed bar/restaurant and local residents. This concern is not supported.

While there are several hot food takeaways within close proximity to the application site there are two existing pubs serving hot food for consumption on the premises on the stretch of Brook Street between Grey Street and St Vincent Street. Given the designation of the area of Brook Street in which the above licensed and hot food premises are situated as a district centre, it is considered that uses such as proposed are best situated in such locations to avoid impacting

significantly on residential premises. Although there are existing residential premises in close proximity to the application site, the noise impact assessment has demonstrated that the proposed bar/restaurant will not impact significantly on the amenity of neighbouring residents. It is on this basis that the proposals are considered to comply with the provisions of Policy 53 of the Dundee Local Plan Review which also makes provision for a relaxation of distance controls given the mixture of uses associated with district centres. It is with this in mind, that the proposed development is not considered to represent an over provision of licensed and hot food premises within this small stretch of Brook Street. Concerns of noise disturbance and over provision are therefore not supported.

Although anti-social behaviour can be a by-product of licensed premises, it is considered that such behaviour has become part of modern day living within mixed use district centres where licensed and hot food premises are predominantly located in the interest of safeguarding amenity in residential areas. The behaviour of people once they have left the application site is not within the control of the applicants but rather Tayside Police. Therefore concerns relating to anti-social behaviour are not supported.

It is concluded from the foregoing that insufficient weight can be accorded to the material considerations such as to justify the refusal of Planning Permission. It is therefore recommended that planning permission be approved subject to conditions.

### Design

The elevational treatments of the proposed bar/restaurant and external fire escape is considered to blend well with the existing streetscape.

### CONCLUSION

The proposed development is considered to meet the criteria of Policy 53 on the Dundee Local Plan Review 2005. The concerns of the objectors are not supported. Therefore planning permission is recommended for approval 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 BEFORE WORK STARTS ON SITE, details of the proposed extraction and ventilation system shall be submitted to this planning Authority for written approval and thereafter installed in accordance with the approved details.
- 3 BEFORE WORK STARTS ON SITE, details of the proposed finishing materials to be applied to the emergency exit shall be submitted to this Planning Authority for written approval and thereafter applied in accordance with the stamped approved plans.
- 4 BEFORE WORK STARTS ON SITE, details of the proposed secondary glazing and partition wall to be erected 300mm of the western party wall as detailed in Section 7 of stamped approved Noise Assessment shall be submitted to this Planning Authority for written approval and thereafter implemented in accordance with the stamped approved plans and noise assessment. or the avoidance of doubt the secondary glazing should be installed on the inside of the existing window openings to safeguard visual amenity of the existing streetscape.

## REASONS

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interest of safeguarding environmental quality by virtue of noise and smell.
- 3 In the interest of safeguarding visual amenity.
- 4 In the interests of safeguarding residential amenity by preventing noise disturbance.