

KEY INFORMATION

Ward Maryfield

Proposal

Proposed pavement cafe for Meadowside for the use of customers of Public House, the use of pavement for tables, chairs and provision of demountable banners and steel posts

Address

The Counting House
67-71 Reform Street
Dundee

Applicant

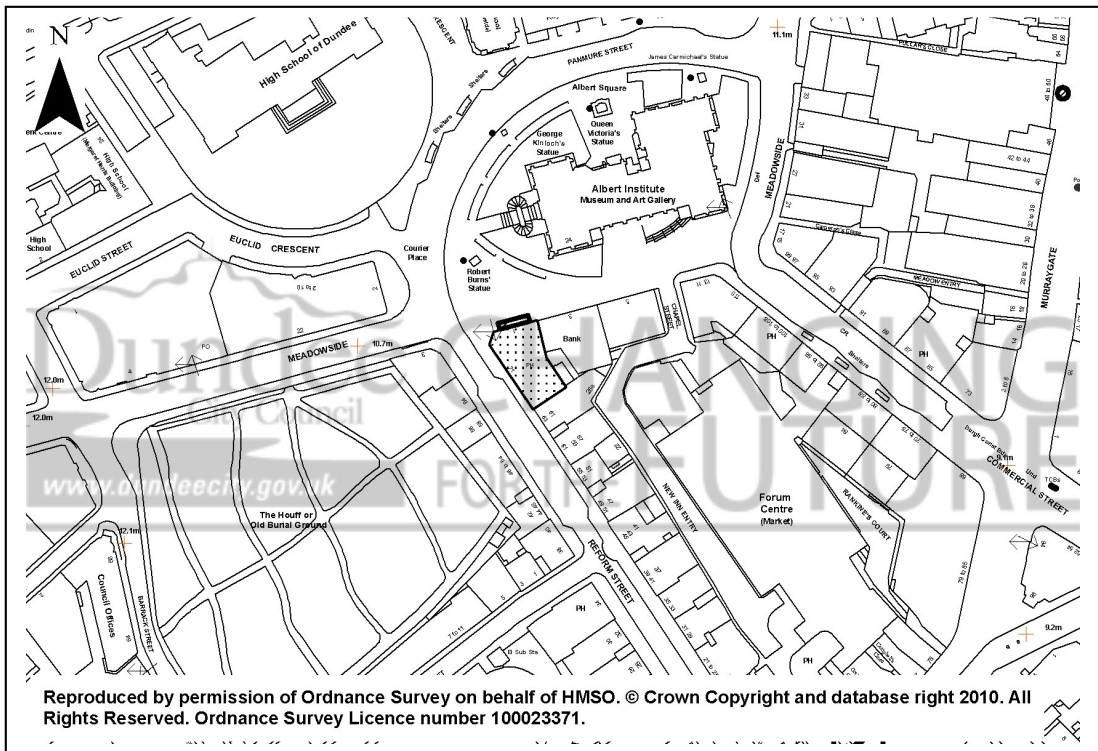
Mr Chris Ferriday
J D Wetherspoon Plc
J D Wetherspoon House
Central Park, Reeds
Crescent, Watford
Herts WD1 1QH

Agent

Jane Jonson
Harrison Ince Architects
2 Jordan Street
Knott Mill
Manchester M15 4PY

Registered 12 April 2010

Case Officer



Proposed Public House Outdoor Seating Area at Meadowside

The Proposed Pavement Cafe for Meadowside for the use by customers of the Public House and the use of the pavement for tables, chairs and provision of demountable banners and steel posts is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

SUMMARY OF REPORT

- The proposal seeks permission to change the use of a pavement to a pavement cafe associated with an adjacent public house located at the junction of Reform Street and Meadowside.
- The proposal involves the use of land which is in the ownership of the Council. In this respect, the application is prohibited from being determined by an "appointed officer" under the Council's Scheme of Delegation.
- The proposal falls to be considered under Policy 60 (Alterations to Listed Buildings) and Policy 61 (Development in Conservation Areas) of the Dundee Local Plan 2005.
- No objections to the proposals have been received.
- The proposals comply with the relevant Local Plan policies but there are other material considerations of sufficient weight that would justify the refusal of this application contrary to the provisions of the development plan.

RECOMMENDATION

The proposed pavement cafe in the location proposed would be detrimental to the amenity of nearby residential occupiers, some of which would be directly above the site. The potential for noise disturbance is considered to be significant and the proposal is therefore recommended for **REFUSAL**.

DESCRIPTION OF PROPOSAL

The proposal seeks permission to change the use of the pavement area situated to the north side of an existing public house (The Counting House) to a pavement cafe. This cafe will be used for purposes associated with the public house including the consumption of, amongst other things, alcohol, coffee and soft drinks. It is assumed that the area will also be used for smoking purposes.

The area measures approximately 11.2 metres long x 2.3 metres wide and is located on Meadowside adjacent to one of the main entrances into the existing building. A total of 6 tables (with 4 seats per table) could be accommodated within the defined area. The facility will be totally removable so that it can be stored away in the evenings once the pavement cafe is closed.

The cafe area is to be defined using demountable fabric banners with chrome supporting posts. The furniture will be timber with metal elements to reflect the chrome posts of the banners. The furniture will be removed into storage once the cafe is closed.

Access to the building remains as existing and is not to be obstructed. The disabled access is also to remain as existing.

The application involves the development of land which is in the ownership of the Council. In this respect, the application is prohibited from being determined by an "appointed officer" under the Council's Scheme of Delegation.

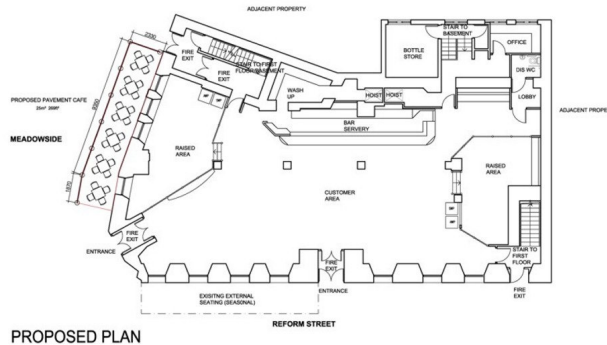
SITE DESCRIPTION

The site is located on the east side of Reform Street immediately adjacent to its junction with Meadowside. The existing building is a public house that occupies the ground floor of a 4 storey, stone built building which is listed Category A.

The area of land under consideration is located immediately to the north of the public house on an area that has recently been the subject of significant environmental improvements. There is

an existing outdoor seating area to the west of the property on Reform Street which accommodates a small number of tables. It is significantly smaller than the size of the area in relation to the current proposal.

The surrounding area accommodates a variety of uses including The McManus Gallery to the north.



Above the existing public house there are vacant units which have previously been in use as offices. However, these units have been the subject of a planning application for the conversion to 2 two bedroom flats and 4 three bedroom HMO flats. There are bedrooms overlooking the Albert Square area, directly over the area proposed to accommodate the pavement cafe. Planning permission was granted for this proposed change to flats but to date has not been implemented.



The site is located within the Central Conservation Area.

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 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:

- Scottish Historic Environment Policy (SHEP) (Historic Scotland 2008).

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

00/24655/D - Change of Use of Pavement to External Seating Area - Approved (T) 27 September 2000.

03/00501/COU - Change of Use of Pavement to External Seating Area - Approved 29 September 2003.

These permissions relate to a small area located on Reform Street which is currently in use.

09/00299/FULL - Conversion of offices to 2 x two bedroom flats and 4 x three bedroom HMO flats.

PUBLIC PARTICIPATION

The application was subject to the statutory Neighbour Notification procedure and was advertised in the local press as a "bad neighbour" development on 23 April 2010. There have been no objections submitted from members of the public.

CONSULTATIONS

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

OBSERVATIONS

Statutory Requirements

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless other material considerations indicate otherwise.

The Development Plan

The proposal seeks permission to use a recently improved pavement area located to the north of an existing public house as a pavement cafe facility. The details of this development are outlined in the "Description of Proposal" section of this report above.

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

Policy 60 (Alterations to Listed Buildings) - this policy requires that alterations to a listed building should have regard to the preservation or enhancement of its architectural or historic character.

While the proposed development does not physically alter the fabric of the existing listed building, it does directly impact on its setting. The proposed cafe will run along the north side of the public house and will be defined by demountable fabric barriers. The proposed structures (tables, chairs and screens) are temporary and will be removed at night time. Consequently, it is considered that any impact on the listed building is ephemeral. Notwithstanding this, the proposed structures are of acceptable design and, in terms of obscuring the elevation of the listed building, is more than compensated for by the vitality of street scene introduced by the outdoor cafe area.



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. The site is located within the Central Conservation Area.

It is considered that the issues that have been raised in consideration of Policy 60 above are relevant to the impact that this proposal will have on the character and setting of the surrounding conservation area. In this respect it is concluded that the development will have a neutral impact on the appearance of the local area.

There are no restrictions in the Local Plan on this type of use in the city centre and no public response to the proposal was received.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

The Statutory Requirements under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

In accordance with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

In accordance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

As discussed above in relation to the Policies of the Dundee Local Plan Review 2005, it is considered that the proposals, due to the design of the furniture and the temporary nature of the facility, will have a neutral impact on the setting of the adjacent listed buildings and the character of the surrounding conservation area. The application is therefore considered to discharge the statutory duties set out above.

Other Material Considerations

The other material considerations to be taken into account are as follows:

Suitability of the Site - the site is located immediately to the north of an existing public house and would be capable of accommodating approximately 6 tables with seats/table. The application does not propose a minimum number of users at any given time. Therefore, taking into consideration the relatively large size of the area proposed, (approximately 11.2 metres by 2.3 metres) it is possible that this could lead to the congregation of a large number of persons of any one time.

The site circumstances have changed in the recent past with the approval of a change of use application for the formation of residential properties

above the public house.(See Site History Section) Whilst it is acknowledged that the ambient noise levels typically found in a city centre location are likely to be higher than other areas, it is considered that the large size of the proposed 'pavement cafe' and unrestricted nature would be likely to lead to the loss of amenity for neighbouring residential occupiers to an unacceptable degree. In addition to this, the flatted development would provide bedrooms overlooking the area proposed to site the 'pavement cafe' and as such there would be a significant impact upon the residential occupiers.

Appearance of the Development and its Relationship to its Surroundings - it is considered that this matter has been discussed and discharged in consideration of the development plan policies above. It has been concluded that the location, scale, massing, design and appearance of the cafe and associated furniture is appropriate and will have a neutral impact in the local area.

Impact - regard has been taken to the desirability of preserving the setting of a listed building and of preserving and enhancing the character and appearance of the surrounding conservation area in the consideration of the development plan policies above. It has been concluded that proposals are acceptable in these matters. However, as discussed above the size and unrestricted nature of the pavement cafe would mean that there would be an increase in likely noise levels resulting from the use. Due to the change in site circumstances from previous approvals with the granting of planning permission for residential use above the premises and the fact that the site occupies an isolated location in terms of proximity to other public house type uses, the potential for noise disturbance to nearby residential occupiers is considered to be of an unacceptable level.

Compatibility with Existing Uses - it has been concluded above that the use would be likely to result in the loss of amenity to nearby residential occupiers and could not be supported in this location.

Scottish Historic Environment Policy - it has been concluded through the consideration of the development plan policies that the proposals will not detract from the setting of the adjacent

listed buildings or the appearance of the conservation area.

Objections

The proposal was advertised in the local press and no objections to the development have been received.

It is concluded from the foregoing that sufficient weight can be accorded to the material consideration that the proposal would be detrimental to the amenities of occupiers of the proposed upper floor flats 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 refused.

Design

The design and appearance of the proposed pavement cafe furniture are considered to be acceptable and appropriate for this location.

CONCLUSION

It is concluded that the provision of a pavement cafe in the location proposed would be detrimental to the amenities of occupiers of the proposed upper floor flats. The potential for noise disturbance is considered to be significant and the proposal cannot therefore be supported.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

Reason

- 1 The proposed pavement cafe would be detrimental to the amenities of the occupiers of the proposed upper floor flats in terms of noise and disturbance due to the size, location and unrestricted nature of the pavement cafe being proposed. There are no material considerations that would support a decision contrary to this.