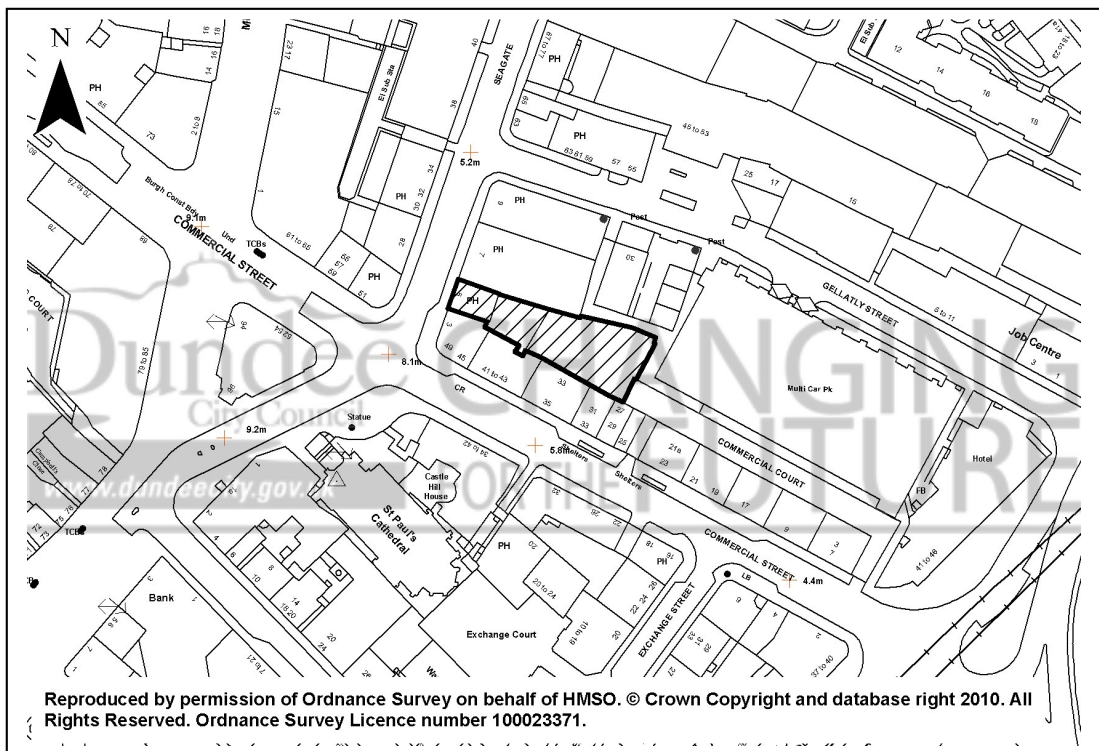


**KEY INFORMATION**

Ward Maryfield

**Proposal**

Part change of use from public house to a night club

**Address**Public house  
1-5 Seagate  
Dundee**Applicant**Belhaven Brewery Co Ltd  
Atrium House  
6 Back Walk  
Stirling**Agent**J A Leask  
2 West Maitland Street  
Edinburgh  
EH3 6QA  
FAO Michael Kelman**Registered** 7 Oct 2010**Case Officer** Paul Macari

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## Night Club Proposal at Seagate

The part change of from Public House to a night club is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of City Development.

**RECOMMENDATION**

The proposals comply with the relevant policies of the Development Plan. The concerns of the Objectors can be addressed by conditions to minimise the impact of the proposed nightclub in terms of noise disturbance and instances of anti-social behaviour. There are no material considerations that would justify refusal of planning permission. It is therefore recommended that planning permission is **APPROVED** subject to conditions.

**SUMMARY OF REPORT**

- This application seeks planning permission for a part change of use of the existing public house at 1-5 Seagate (The Lowdown) to a night club.
- The purpose of this application is to change the use of the premises to a night club after 10.00pm to regularise the use of the application with the premises license recently granted by the Council to allow for late night operating hours 2.30am.
- Policy 52 (Restraint On Licensed Premises In The City Centre) and Policy 61 (Development in Conservation Areas) of the Dundee Local Plan Review 2005.
- 6 valid letters of Objection have been received from neighbouring residents concerned about instances of noise disturbance from the increased operating hours and increased instances of anti-social behaviour.

## DESCRIPTION OF PROPOSAL

This application seeks planning permission for a part change of use of the existing public house at 1-5 Seagate (The Lowdown) to a night club.

The purpose of this application is to change the use of the premises to a night club after 10.00pm to regularise the use of the application site with the recently approved premises license approved by the Council to allow for late night operating hours until 2.30am. After 10.00pm customer will be charged to enter the premises.

Amplified music shall be broadcast within the premises and shall be supplied by way of a DJ booth on the lower ground floor.

No internal or external alterations to the building are proposed.

In accordance with the Council's scheme of delegation, this application requires to be reported to the Development Management Committee as 6 valid letters of objection have been received from neighbouring residents.

## SITE DESCRIPTION

The application site is located on the eastern side of Seagate and occupies the ground and lower ground floors of a terraced 4 storey tenement building. The premises adjoin similar buildings to the north and south. The ground floors of adjoining buildings to the north and south are occupied by public houses and Blacks Outdoor shop. On the opposite side of Seagate (Western side) adjacent to the application site there are 2 public houses, a cafe, betting shop and retail units.

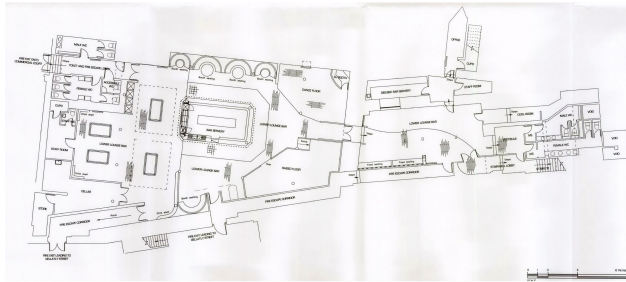
There are residential properties on the upper floors of the building above the application site and above the commercial premises on the western side of Seagate.

The building housing the application site is of a traditional stone built appearance with a pitched roof finished in slate. The windows of the upper floor flats are timber framed sliding sash in case in design. The existing public house at 1-5 Seagate has a modern frontage formed from large recessed timber framed windows

with a centrally positioned timber door. There is a small stallriser beneath the windows that has been painted black. The window surrounds and fascia panel of the public house is also painted black.

There is a fascia sign in the form of individual letters displayed on the building.

The application site is located within the City Centre conservation area and the building is B Listed.



## 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 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 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

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

There is no planning history relevant to the outcome of this planning application.

## **PUBLIC PARTICIPATION**

The Council has followed the statutory neighbour notification procedure outlined in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. In addition this application was advertised under Section 34 of the Town and Country Planning (Scotland) Act 1997 as amended as bad neighbour development in the Dundee Evening Telegraph.

6 valid letters of objection were received from neighbouring residents concerned about noise disturbance and instances of anti-social behaviour.

Members will already have access to these letters and the points raised are considered in the "Observations" section of this Report below.

## **CONSULTATIONS**

The Council's Head of Environmental Health and Trading Standards has requested that should the Committee be mindful to grant planning permission, a condition is incorporated in to the decision which states, "Music and amplified vocals shall be so controlled as to be inaudible within any residential property."

## **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 material considerations indicate otherwise.

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.

### **The Development Plan**

## **Dundee City Council Development Management Committee**

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

Policy 52 (Restraint on Licensed Premises Within the City Centre) is supportive of proposals that will not result in an excessive concentration of public houses and night clubs in close proximity to residential premises. 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>.

The existing public house at 1-5 Seagate has been established for some time and already benefits from a premises license allowing on-sales of alcoholic beverages and hot food from 11.00am until 11.00pm. Therefore, the requirements of Policy 52 are not considered relevant to the outcome of this planning application as the proposals do not seek planning permission for the creation of a new licensed premises'.

Policy 60 (Alterations to Listed Buildings) is supportive of proposals that seek to preserve or enhance the architectural or historic character of listed buildings. The proposals do not involve any internal or external alterations to the B listed building and therefore the proposals are considered to maintain the architectural and historic character of the building.

Policy 61 (Development in Conservation Areas) requires proposals to preserve or enhance the character of conservation areas. The application site is located within the City Centre Conservation Area. The proposals do not involve any external or internal alterations to the B listed building and therefore are not considered to impact upon the character of the City Centre Conservation Area.

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

### **Statutory Duty**

The proposals shall maintain the existing character or setting of the

existing B listed building at 1-5 Seagate or the historic Seagate streetscape. This is because the proposed development shall not involve any external or internal alterations to the existing building. In this instance the statutory duty outlined by Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas)(Scotland Act 1997 as amended is satisfied in the assessment of the proposals against the Development Plan.

### **Other Material Considerations**

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

### **Concerns of Objectors**

6 valid letters of objection have been received from neighbouring residents concerned about noise disturbance and anti-social behaviour.

While it is acknowledged that there are many upper floor residential properties located in close proximity to the application site and indeed adjoining the premises at 1-5 Seagate, the existing public house is licensed by the Council subject to a condition that requires all noise from within the premises to be inaudible from within adjoining and neighbouring residential properties. A similar license has already been granted by the Council allowing the public house at 1-5 Seagate to operate until 2.30am subject to the premises obtaining planning permission and a condition that requires all noise from within the premises to be inaudible from within adjoining and neighbouring residential properties. In this instance the Head of Environmental Health and Trading Standards has also requested that a condition similar to those imposed on the licenses granted for the premises at 1-5 Seagate is incorporated into the grant of planning permission should the Committee be minded to approve this application. It is therefore considered that the inclusion of the recommended condition by the Head of Environmental Health and Trading Standards shall prevent instances of significant noise disturbance from within the premises at 1-5 Seagate from occurring that would otherwise adversely affect the level of amenity afforded to neighbouring and adjoining residential properties.

Instances of noise disturbance and anti-social behaviour occurring after

13 December 2010

the proposed nightclub has closed or while customers queue to get into the premises are not considered to be so significant as to warrant refusal of planning permission. This is because Seagate is the main thoroughfare through the City Centre providing vehicle access as well as pedestrian access to the facilities located within the City Centre 24 hours-a-day. Therefore, at all times of the day and night there are people and vehicles on Seagate. There are existing licensed premises operating until 0230 on Seagate with customers generating instances of noise disturbance and anti-social behaviour as they leave such premises or make use of the hot food takeaways or wait on transport at the taxi ranks within the vicinity of the application site. Therefore, it is considered that the proposed nightclub shall not exacerbate the effects of existing levels of late night noise disturbance or anti-social behaviour.

As there is a taxi rank located outside the premises at 1-5 Seagate there are already instances of late night noise disturbance from vehicle movements and car doors closing. The proposed nightclub with operating hours until 2.30am is not considered to significantly increase the existing levels of noise disturbance and anti-social behaviour that occur within the vicinity of the application site given the proximity of other licensed premises to the application site and that the premises are located on the main thoroughfare through the City Centre.

It is acknowledged that the application site is located in a dense residential area of the City Centre. Although the City Centre is the City's hub of business and leisure activity it is also home to many residents, visitors and students. Therefore to safeguard the level of amenity afforded to Seagate and neighbouring residential properties, it is proposed to control the operating hours of the proposed nightclub to between 10.00pm and 2.30am Thursday to Sunday should the Committee be minded to approve this application.

The concerns of the Objectors relating to noise disturbance and anti-social behaviour can be addressed by conditions relating to inaudibility and controlling the hours of operation.

It is concluded from the foregoing that sufficient weight can be accorded to

the material considerations to justify the grant of planning permission. It is therefore recommended that planning permission be granted with conditions.

### **Design**

No internal or external alterations to the B listed building are proposed.

### **CONCLUSION**

The proposals comply with the relevant policies of the Development Plan. The concerns of the Objectors can be addressed by conditions to minimise the impact of the proposed nightclub in terms of noise disturbance and instances of anti-social behaviour. There are no material considerations that would justify refusal of planning permission. It is therefore recommended that planning permission is approved subject to conditions.

### **RECOMMENDATION**

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

- 1 Music and amplified vocals from within the proposed nightclub hereby approved shall be so controlled as to be inaudible within any residential property.
- 2 The proposed nightclub hereby approved shall operate between the hours of 10.00pm and 2.30am Thursday to Sunday.

### **Reasons**

- 1 In the interests of preventing significant instances of noise disturbance from occurring.
- 2 In the interests of protecting the level of environmental quality afforded to the City Centre as a place to live, work and partake in leisure activities.