

KEY INFORMATION

Ward Broughty Ferry

Proposal

Erection of timber deck to provide public house with additional seating

Address

Ship Inn
121 Fisher Street
Broughty Ferry
Dundee DD2 2BR

Applicant

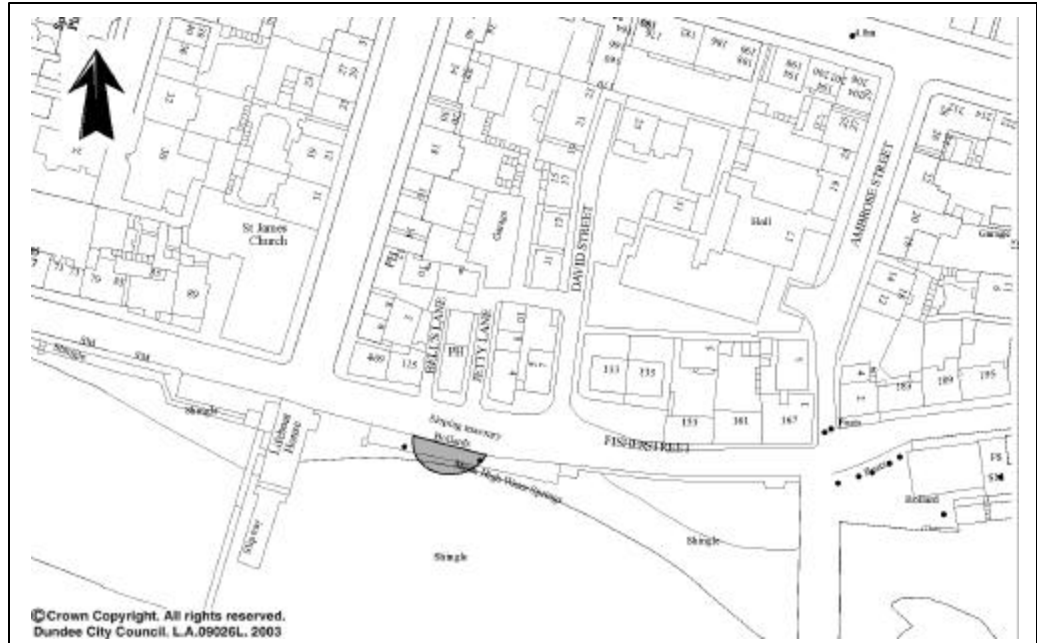
Mr S Cummings
Ship Inn
121 Fisher Street
Broughty Ferry
Dundee DD5 2BR

Agent

Nicoll Russell Studios
111 King Street
Broughty Ferry
Dundee DD5 1EL

Registered 17 Feb 2004

Case Officer J Robertson



Proposal for Seating Area at the Ship Inn

The erection of timber deck to provide public house with additional seating is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development is considered to be contrary to the relevant policies in the Dundee Local Plan and the Finalised Local Plan Review.

The application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a timber decked area on the shoreline of Fisher Street to provide external seating for the Ship Inn public house.
- The proposal raises issues for consideration in terms of the Housing, Leisure and Tourism and Built Environment Policies of the Dundee Local Plan 1998 and Policies 53, 60 and 76 of the Finalised Dundee Local Plan Review.
- Seven letters of objection were received from residents in the surrounding area and Broughty Ferry Community Council objected to the proposed development. The main concerns raised related to disturbance from noise, traffic and pedestrian safety and the detrimental impact on the conservation area.
- It is considered that the proposed development is contrary to the Housing, Leisure and Tourism and Built Environment Policies of the Dundee Local Plan 1998 and Policies 53 and 60 of the Finalised Dundee Local Plan Review. In addition, it is considered that the concerns raised by objectors are sufficient to warrant refusal of the application.

DESCRIPTION OF PROPOSAL

The application is for planning permission for a change of use from shorefront land to a timber deck to provide a public house with an external seating area. The submitted plans show that the timber decking is supported on a concrete plinth. The deck will be formed with cedar timber boards radiating from a circle centre. The structure will be 5.5 metres in length and 11 metres wide. The timber deck will provide the Ship Inn public house with 8 permanent seating areas, which will be fixed to the deck and will be finished in matching materials. An additional five moveable tables and chairs will be provided, finished in steel/aluminium. The decking will be enclosed with a steel post railing with a number of lamps fixed to the top of the railing to provide external lighting.

SITE DESCRIPTION

The site is located on the south side of Fisher Street with Fort Street to the west and Ambrose Street to the east. The site is an area of shorefront land on a shingle beach. The associated public house is located north of Fisher Street opposite the site. The Lifeboat House is located west of the site. The surrounding area is predominantly residential.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 1998

The following policies are of relevance:

Policy H1 - Existing residential areas

Policy LT2 - Areas of Tourism Potential

Policy LT8 - Licensed and hot food premises

Policy BE11 - Development in Conservation Areas

Dundee Urban Nature Conservation Subject Local Plan 1995

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

Finalised Dundee Local Plan Review

The following policies are of relevance:

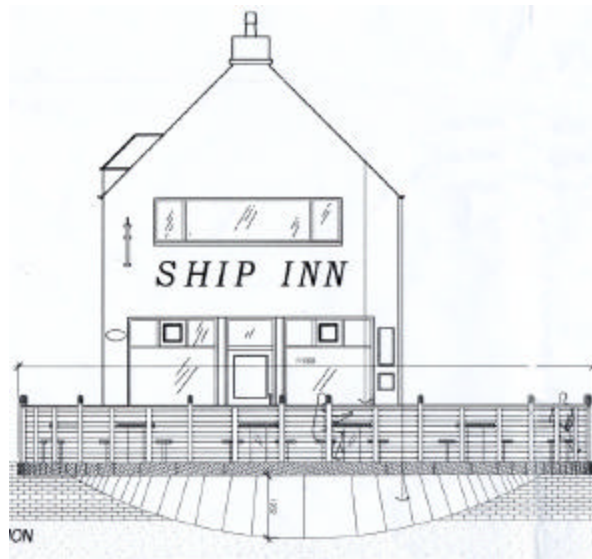
Policy 53 - Licensed and hot food premises

Policy 61 - Development in Conservation Areas

Policy 76 - Flood Risk

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

The Flood Prevention Report 2003 identifies that Fisher Street is a Category 1: High-Risk flood area.

Broughty Ferry Study 1999

Paragraph 10.9.3 of the study sets out the potential environmental and traffic improvements of Fisher Street and the surrounding area. The aim of these improvements is to develop the tourism potential of the area.

LOCAL AGENDA 21

Key Theme 13 is relevant to the consideration of this application and states that places, spaces and objects should combine meaning and beauty with utility.

It is considered that the proposal is contrary to these objectives.

SITE HISTORY

There is no site history of relevance to this application.

PUBLIC PARTICIPATION

The applicant carried out statutory neighbour notification and the application was advertised in the "Dundee Courier and Advertiser" on 24 February 2004 under Section 34 of the 1997 Act as a potential bad neighbour and on 1 March 2004 as a potential departure to the development plan.

In response seven letters of objection were received on the basis that the proposal raises concerns regarding traffic safety, noise, residential amenity and the detrimental impact on the character of the conservation area.

Copies of the letters of objection are available in the Members' Lounges and the concerns raised are addressed in the "Observations" section of this report.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advised that he has no objections to the application subject to conditions being attached to permission, if granted, restricting hours of operation and levels for amplified music and vocals.

The Broughty Ferry Community Council lodged their objection to the proposal on the grounds of potential increase in litter, the standard and appearance of proposed materials and the adverse affect on the conservation area.

No adverse comments were received from any of the other statutory 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 H1 - Existing residential areas. This policy advises that developments will not be permitted where they adversely affect the environmental quality enjoyed by residents by virtue of design, layout, parking and traffic movement issues, noise and smell.

The proposed development is for a large external decked seating area for the Ship Inn public house on the foreshore opposite. Given the nature of the proposed use and the location of the decked area there could be the potential of disturbance to surrounding residents from noise. The Head of Environmental Health and Trading Standards has advised that subject to conditions restricting the hours of operation and use of amplified music or vocals, he had no objections to the proposed development. Therefore, it is considered that subject to control over the hours of use of the decked seating area and use of amplified music it could, in theory, be possible to accommodate the proposed use without a significant detrimental affect on the amenity of the residents in the area due to disturbance from noise.

However, the decked external seating area for the public house is to be permanent and is to have a number of fixed tables and chairs. It is considered that given the physical separation of the decking area from the public house the ability to control the use of the area outwith the agreed hours of operation could prove to be difficult for the applicants. In addition, there would be no control late at night when the public house is closed. Problems could therefore arise due to the misuse of the decking area

by people, outwith agreed hours, leading to potential disturbance from noise at unsociable hours to residents in the surrounding area. Therefore, while there is no objection to the principle of an external seating area for the public house it is considered that the proposal in the form of a detached area is not acceptable.

In addition, the physical separation of the decking area from the public house would mean that staff and customers would have to cross Fisher Street to move between them. It is considered that this physical separation could lead to issues of pedestrian and traffic safety. The closure of Fisher Street at Ambrose Street aims to reduce traffic significantly in the area. This would help address this issue but would not completely resolve it. While there are pedestrian and traffic safety concerns these would not warrant refusal of the application in themselves. If the application was to be approved the issue of providing safe passage across the road for staff and customers would need to be addressed in further detail.

While the idea of operating a separate decked seating area for the public house could in theory operate without a significant impact on the amenity of residents it would depend on the proper control of the area by the applicant. The ability to achieve this is considered to be somewhat doubtful given the location of the seating area and its permanent nature. The opportunity for misuse of the area and the potential for disturbance of residents from noise at unsociable hours is evident. A more appropriate area for an outdoor seating area would be to the front of the public house. Given the proposals for widening the footway on Fisher Street the opportunity to create an outdoor seating area adjacent to the public house should be investigated.

It is therefore considered that the proposal is contrary to Policy H1.

Policy LT2 - Areas of Tourism Potential; investigate ways of maximising tourism potential. The area in which the decking is proposed has been accepted as an area of tourist potential. However, each application needs to be assessed on its own merits in terms of type of use, materials used and impact on the surrounding area. For the reasons outlined above it is

considered that the proposal as submitted should not be supported.

Policy LT8 - Licensed and hot food premises. The policy advises that no licensed premises or premises selling hot food is acceptable within 30 metres of existing housing. There are residential properties within 30 metres of the proposed decked seating area. It is accepted that the applicant already has a licensed premise on Fisher Street. The proposal, however, is physically separate from the existing public house. It would not therefore form an extension to the public house but a physically separate use. It is considered that the proposal would result in a separate licensed premise on Fisher Street. For the reasons set out in the consideration of the proposal in terms of Policy H1 it is considered that there could be the potential of a significant adverse affect on the amenity of the residents due to the disturbance from noise. It is therefore considered that the proposal is contrary to Policy LT8 as there are residential properties within 30 metres of the application site.

Policy BE11 - Development in Conservation Areas is relevant and advises that within conservation areas all development proposals will be expected to complement and enhance the character of the surrounding area. The design of the proposed decking area could be improved to achieve a better quality design more appropriate for the area. However, given the overriding Policy issues in terms of noise design improvements have not been pursued at this stage. It is considered that the proposed decking area does not complement or enhance the conservation area at this prominent location on the shoreline.

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.

Finalised Local Plan Review

Policy 53 - Licensed and hot food premises outwith the City Centre. This proposal advises that outwith District Centres licensed premises (other than off licenses) are not permitted within 30 metres of existing houses. The proposed site is outwith the district

centre in Broughty Ferry and as mentioned previously it is located within 30 metres of housing. For the reasons outlined above it is considered that the proposal is contrary to Policy 53.

Policy 60 - Development in Conservation Areas will be expected to preserve or enhance the character of the surrounding area. As with Policy BE11 of the Dundee Local Plan 1998, it is considered that the proposal neither preserves nor enhances the character of the area and is therefore not acceptable.

Policy 76 - Flood Risk, there is a general presumption against development in high risk areas. The existing flood levels on Fisher Street are at/above the existing road level. However given the nature of the structure and its location, while it may be affected by flooding the impact would not be significant. On the grounds of Policy 76 it would therefore not merit the refusal of an application for this type of development.

Coastal Protection

The structure of the decking is to be built on the existing seawall. The possible impact of this structure on the seawall would require separate determination under the Coastal Protection Act.

Objections

As previously noted seven letters of objection were received in terms of traffic safety, noise, residential amenity and detrimental issues regarding the conservation area.

In terms of traffic safety, Fisher Street has been closed at Ambrose Street to stop through traffic however, traffic will continue to access the area for parking purposes and to access residential properties. It is considered a pedestrian safety concern that staff and patrons of the public house will have to cross the road to access the external seating area. As mentioned previously despite the closer of Fisher Street at Ambrose Street, which will significantly reduce traffic movement in the area, issues regarding, pedestrian and traffic safety need to be addressed. While there are concerns these would not warrant refusal of the application in themselves. If the application was to be approved the

issue of providing safe passage across the road for staff and customers would need to be addressed in further detail.

The issue of an increase in disturbance from noise was raised by objectors. Present noise from the public house is contained within the building and a small external seating area on the pavement. As set out above it is considered that there could be an increase in disturbance from noise from the external decked area.

Concerns were also raised with regards to the potential impact on the visual appearance of the conservation area. For the reasons already discussed it is considered that the proposals would neither complement nor enhance the visual character of the conservation area.

Broughty Ferry Community Council also objected to the proposed development. Their grounds of objection related to the potential increase in litter, the standard and appearance of proposed materials and the adverse affect on the conservation area. Most of these issues are addressed in the above considerations. In terms of litter, if the application is approved, this matter would require to be addressed and measures put in place to achieve an effective means of dealing with litter disposal.

It is concluded from the foregoing that there are no material considerations such as to justify departing from the policies of the development plan. It is therefore recommended that planning permission be refused.

Design

As previously mentioned it is considered that the design of the proposal could be improved to make it more in keeping with the character of the area. The proposal as it stands neither complements nor enhances the visual appearance of the area.

CONCLUSION

As detailed above it is considered that the application is contrary to the Housing, Leisure and Tourism and Built Environment Policies of the Dundee Local Plan 1998 and Policies 53 and 60 of the Finalised Dundee Local Plan Review. It is considered that the concerns raised by objectors would also warrant refusal of the application.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reasons:

Reasons

- 1 The proposed development is contrary to Housing Policy H1 of the Dundee Local Plan 1998 given the detrimental impact on the environmental quality of existing residents due to disturbance from increased noise levels. There are no material considerations that would justify departing from the policies of the development plan in this instance.
- 2 The proposed development is contrary to Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998 and Policy 53 of the Finalised Dundee Local Plan Review as it would be within 30 metres of existing housing and would result in the potential of disturbance from noise. There are no material considerations that would justify a departure from the policies of the development plan in this instance.
- 3 The proposed development is contrary to Built Environment Policy BE11 of the Dundee Local Plan 1998 and Policy 61 of the Finalised Dundee Local Plan Review as the design and location of the proposal would have a detrimental affect on the visual character of the surrounding environment. There are no material considerations that would justify departing from the policies of the development plan in this instance.