

**KEY INFORMATION**

**Ward** Strathmartine

**Proposal**

Change of use of part of car park to beer garden

**Address**

The Downfield Hotel  
530 Strathmartine Road  
Dundee  
DD3 9BR

**Applicant**

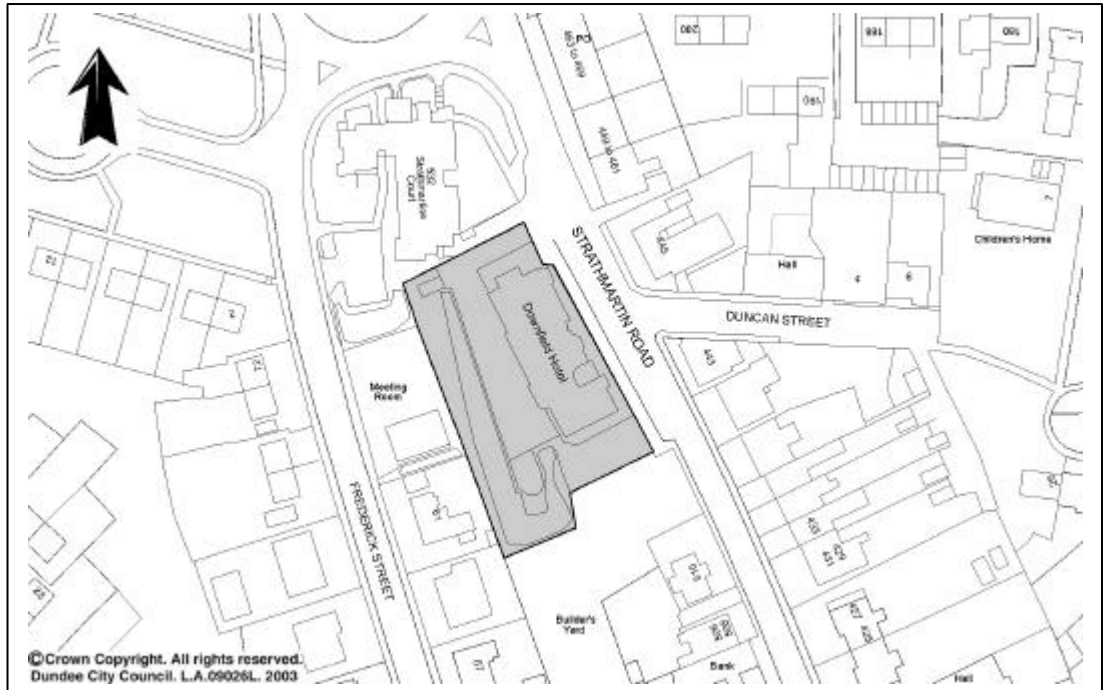
Spirit Group  
107 Station Street  
Burton-Upon-Trent  
Staffordshire  
DE14 1SZ

**Agent**

Burns Design Ltd  
76 Dumbarton Road  
Clydebank  
Glasgow

**Registered** 26 Aug 2004

**Case Officer** Eve Jones



# Proposal to Change Part of Car Park to Beer Garden at Downfield Hotel

The change of use of part of the car park to a beer garden is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposal does not comply with one relevant Council policy due to the distance to the nearest housing but the site circumstances are likely to reduce any noise impact. The single objection cannot be supported but a temporary consent for 1 year with conditions on music and hours of operation will allow the impact on all neighbours to be assessed. Accordingly, the application is recommended for **APPROVAL** subject to conditions.

**SUMMARY OF REPORT**

- Planning permission is sought for the formation of a beer garden on part of the rear car park of an established public house on Strathmartine Road. The beer garden will be screened by a timber fence and provide for approximately 10 tables.
- The site lies to the rear of the building and the nearest houses are 20 and 25 metres away on top of a steep embankment which encloses the site to the west and south. There is a sheltered housing complex 45 metres away to the north. There are local shops to the north east on a busy local road.
- Due to the proximity of the houses, the proposal does not comply with the distance restrictions in the relevant Council policies. However the height of the embankment is likely to reduce any noise impact.
- One objection has been received, from the Housing Association which operates the sheltered housing complex to the north, on the grounds of increased noise. The complex is 45 metres from the site and lies next to the existing entrance to the car park. Conditions can be imposed to restrict hours of operation and use of music. It is considered that under such conditions, the proposed beer garden would be likely to have little impact on residents.
- With regard to proposed beer gardens in predominantly residential areas, the Committee has previously granted a 1 year temporary consent to allow the impact on neighbours to be assessed. Therefore a temporary consent of 1 year is proposed in this case.

**DESCRIPTION OF PROPOSAL**

Change of use of part of the rear car park to form a beer garden. The beer garden is proposed to be 68 square metres to accommodate approximately 10 tables and is surrounded by a 1.8 metre high wooden fence.

**SITE DESCRIPTION**

The premises lie on the west side of Strathmartine Road, south of its junction with Balgowan Avenue. The hotel has a long frontage to the road with a vehicle access at the north leading to the rear car parking area. The land surrounding the rear of the hotel is elevated with a steep embankment enclosing the rear car park. Surrounding uses include a sheltered housing complex to the north, shops with flats above to the north east and residential properties to the east. The former builders yard to the south is currently being redeveloped for housing. It also lies at a higher level than the application site.

**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 LT8 - Licensed and Hot Food Premises.

**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 1 - Vibrant and Sustainable Communities.

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

**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.

the sheltered housing complex to the north of the premises. The objection is on the grounds of loss of residential amenity due to noise. Copies are available in Members Lounges. The objections will be considered in the Observations below.

**CONSULTATIONS**

There were no adverse comments from consultees but the Head of Environmental Health and Trading Standards seeks conditions relating to hours of operation and restrictions on music provision.

**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.

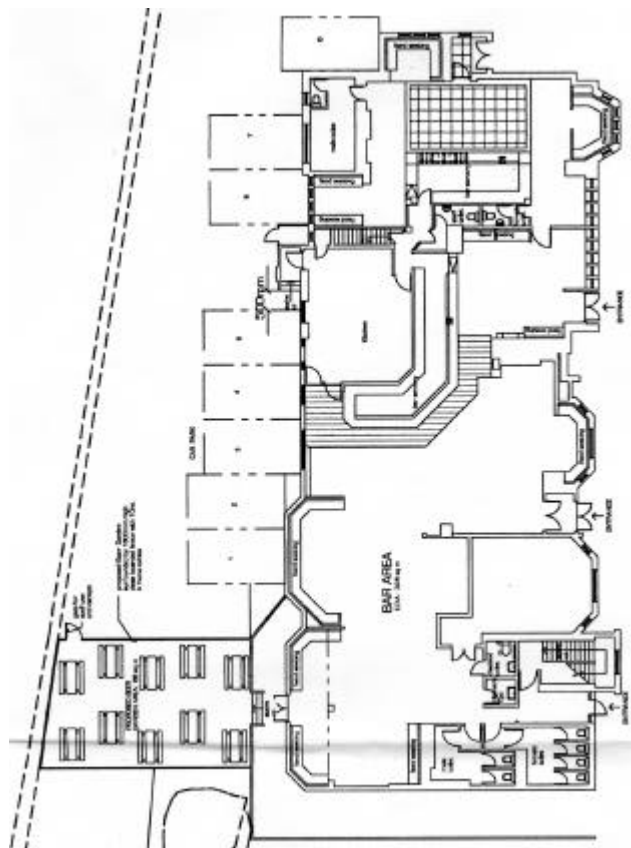
**The Development Plan**

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. The policy supports the retention or introduction of service and

facilities which are desirable within residential areas provided they do not adversely affect the environmental quality enjoyed by local residents by reason of design, layout, parking and traffic movement issues, noise or smell and they are in accordance with other policies in the plan.

This is an existing, long established, public house which lies close to a small group of shops and businesses within a predominantly residential area. The provision of a beer garden on to the rear of the premises is likely to be an additional attraction to patrons in suitable weather conditions but is unlikely to be a primary attraction throughout the year. In principle, the



**LOCAL AGENDA 21**

Key Theme 7 requires that access to facilities, services, goods and people is not achieved at the expense of the environment.

**SITE HISTORY**

Previous applications relate to minor extensions to the property and to new signage.

**PUBLIC PARTICIPATION**

The application was the subject of statutory neighbour notification. One objection was received from the Housing Association which operates

use of an outside area as a beer garden at an existing public house is often acceptable subject to specific hours of operation and noise restrictions. The proposal will result in the loss of 2 car parking spaces from a total of 10. The proposal is considered to comply with the requirements of Policy H1.

Policy LT8 - Licensed and Hot Food Premises. No licensed premises... is acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres. The application is in respect of use of an outside patio of 68 square metres at an existing public house. Extensions to public houses and beer gardens are required to comply with these distance requirements in the interests of residential amenity. The new houses to the south are approximately 25 metres away and the nearest house to the west is 20 metres from the boundary of the terrace and therefore the proposal does not comply with this policy. The objectors sheltered housing unit to the north is 45 metres distance.

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 Dundee Local Plan Review

Policy 1 - Vibrant and Sustainable Communities. The policy encourages the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the Plan and seek to minimise any effect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise and smell. As detailed above, this is a local service area where in principle such a proposal, to the rear of the premises, is unlikely to have a significant impact on the residential amenities currently enjoyed by local residents subject to certain restrictions.

Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The policy states that no licensed premises is acceptable within 30 metres of existing or proposed housing if the outlet does not exceed 150 metres

gross floorspace. As detailed above, the proposal does not comply with this requirement.

Objection: A single objection has been received from the Housing Association which operates the sheltered housing complex to the north of the public house. The entrance to the car park is adjoining this complex but the proposed beer garden is 45 metres away and it is proposed to be surrounded by a 1.8 metre high wooden fence. It is considered that subject to specific conditions regarding music and hours of operation, the proposed beer garden is unlikely to add to the current levels of activity experienced by adjoining residents.

### Site Conditions

As noted above, the site lies within 30 metres of adjacent houses to the west and south. However the proposed beer garden is bounded by a steep embankment to the rear of the public house and as a result, both of these houses are at a much higher level, approximately 4/5 metres, above the site. There is very limited line of sight between the two which should limit the impact of any noise.

### Design

There are no relevant design issues.

### CONCLUSION

The site is to the rear of an established public house and is enclosed by a steep embankment. The nearest houses are at a higher level. The beer garden will only be used when weather conditions are favourable and its hours of operation and restrictions on music can be the subject of planning conditions. It has been the practice of this Council to grant temporary consents for a period of 1 year for new beer gardens to assess their impact on surrounding residential properties. It is considered that such an approach is appropriate in this situation having regard to the sheltered housing on the adjoining site to the north.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the granting of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted subject to conditions.

### RECOMMENDATION

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

- 1 The use hereby permitted shall cease not later than 31 December 2005.
- 2 The beer garden that is the subject of this consent shall only operate between 11.00am and 9.00pm on any day.
- 3 There shall be no amplified music or vocals to the beer garden hereby approved.

### Reason

- 1 In order that the City Council may have the opportunity of reviewing the impact of this development on the amenities of occupants of other properties in the vicinity in the light of experience of its operation.
- 2 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.
- 3 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.