

KEY INFORMATION

Ward Tay Bridges

Proposal

Change of use from shop (Class 1) to restaurant (Class 3) on ground and first floor

Address

187 Perth Road
Dundee
DD2 1AS

Applicant

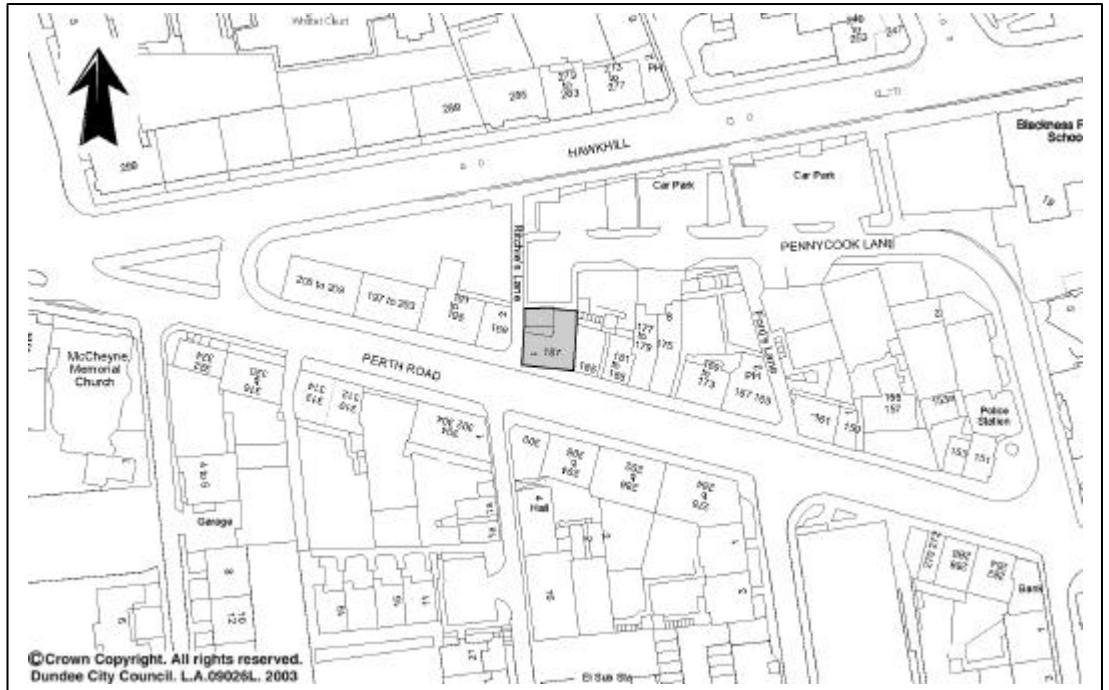
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Registered 13 Sept 2004

Case Officer Eve Jones



Proposal to Convert Shop to Restaurant In Perth Road

The change of use from shop (Class 1) to restaurant (Class 3) is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal is contrary to one of the relevant policies in the Dundee Local Plan but is in accordance with all policies in the Finalised Dundee Local Plan Review. Planning permission has been granted for a restaurant on the ground floor. The single objection cannot be supported. The material considerations are strong and support a recommendation of **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- The application is for the change of use of this traditional stone building to form a restaurant. It will have accommodation for diners on the ground and first floors and an external seating area is proposed on ground to the rear.
- The site lies on the north side of Perth Road within the busy District Centre. Surrounding buildings have shops on the ground floor with flats above. There are a number of restaurants and public houses. There is on street parking and a public car park to the rear. The building is currently vacant.
- The proposal is contrary to one of the relevant policies in the Dundee Local Plan 1998 due to its proximity to residential property but is in accordance with all relevant policies in the Finalised Local Plan Review 2003.
- One objection has been received from a neighbouring business on the grounds that the proposal will result in increased pressure on customer parking to the detriment of other businesses in the area. The proposed use is complementary as a restaurant is more likely to be used at different times of the day. The objection cannot be supported.
- Planning permission was granted in October 2003 for change of use of this building to a restaurant at ground floor and offices above. The principle of the use has been established.
- The proposal represents beneficial use of an important building in the Conservation Area for a use which is supported in District Centres.

DESCRIPTION OF PROPOSAL

The application is for the change of use of the existing building to form a restaurant. There will be seating on both the ground and first floors with a new external seating area to the rear. The attic space is unused.

SITE DESCRIPTION

A two storey with attic, traditional stone building with slate roof situated on the north side of Perth Road close to the Sinderins junction. The building is currently a shop at ground floor with vacant offices above. The surrounding properties to the west, south and east are all taller tenemental buildings with shops on the ground floor and flats above. The lane to the immediate west of the building leads northwards to the Hawkhill and gives access to the small public car park which lies to the rear of the site. There is on street parking in front of this building. Perth Road at this point is a busy commercial location which is also a main bus route. The District Centre contains a number of restaurants, public houses and takeaways in addition to a wide range of shops. The site to the rear has a tree and shrubbery which is full of litter.

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 S17 - Retail Core Areas.

Policy LT8 - Licensed and Hot Food Premises.

Policy BE 11 - 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 38 - District Centres.

Policy 39 - District Centre Core Areas

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

Policy 61 - Development in Conservation Areas.



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.

LOCAL AGENDA 21

The restaurant complies with Key Themes 7 and 11 as it provides a service accessible to all but maintains the environmental quality of the building.

SITE HISTORY

The conversion of the upper floor accommodation from residential to office and storage was approved in 1985.

03/00221/COU Change of use to restaurant on ground floor and offices on upper floors was approved subject

to conditions on 26/10/2003. This permission was not implemented.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a Bad Neighbour development and a development contrary to the development plan. One letter of objection was received from an adjoining shop proprietor on the grounds that the proposal will result in increased pressure on the existing limited parking to the detriment of other businesses.

CONSULTATIONS

The Director of Environmental and Consumer Protection advises that appropriate conditions be added to any planning permission with regard to the proposed mechanical and electrical services.

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 S17 - Retail Core Areas supports use of existing retail premises within the retail core for restaurant use at ground level. The site lies within the Perth Road District Centre and the proposal complies with the policy.

With regard to Policy LT8 - Licensed and Hot Food Premises, the policy states that such premises are not acceptable within 30 metres of existing housing.

It is assumed that the restaurant will be licensed. It is also likely that the

restaurant will provide ancillary take away products in common with many other restaurants in the City. However, the primary use of the site would be a restaurant. It is within 30 metres of flats on upper floors of the building immediately adjoining to the east and across the lane to the west. The restaurant does not therefore comply with Policy LT8 of the development plan.

Policy BE 11 - Development in Conservation Areas requires development to complement and enhance the character of the surrounding area. The development will result in the beneficial use of a traditional building of character in the heart of the conservation area. The enclosure of the rear seating area with a wall will improve the environment of the area by reducing the opportunity for the casual disposal of litter. The proposal complies with the policy.

The proposed development complies with the relevant policies other than the distance requirements of Policy LT8 between licensed premises and residential properties.

Other Material Considerations

The Finalised Dundee Local Plan Review is a material consideration in the determination of this application.

Policy 38 - District Centres supports retail and other shopping developments which would contribute to the vitality of the centre.

Policy 39 - District Centre Core Areas defines restaurant use at ground floor level as an important use within the retail core. The Plan also indicates that District Centres should offer a wide range of shopping and related services.

Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The policy states that within District Centres, the relaxation of the 30 metre rule for proximity to residential property may be appropriate in recognition that the impact of such uses may be reduced and that they are important functions which are expected to be located in such areas. The housing to the west is separated from the site by the lane. The housing to the east is in a separate building and there are no facing windows between the uses. In these circumstances, it is considered that the potential loss of residential amenity from the proposed

restaurant is very limited and can be the subject of specific planning conditions relating to noise outputs from services. The policy states however that proposals for hot food take aways will not be permitted in premises directly adjoining residential properties other than in specific very restricted circumstances. The proposal is for a restaurant use and any take away provision will be ancillary to this primary use.

Policy 61 - Development in Conservation Areas as noted above the development complies with policy.

It is therefore considered that the proposed restaurant is in accordance with the policies of the Finalised Dundee Local Plan Review.

Objection

The proprietor of an adjacent shop objects on the grounds of lack of customer parking and that the proposal will result in increased pressure on the existing limited parking to the detriment of other businesses. Customers of a restaurant are likely to require parking in the evening when many of the other businesses in Perth Road are closed. There is on street parking. In addition, there is a large public car park to the rear of the premises on Pennycook Lane and another off Union Street which is within 150 metres. The objection cannot be supported.

Previous History

As noted above, planning permission was granted by Committee in October 2003 for a restaurant on the ground floor of this building. The permission has not been implemented as the area available was very small. However, the principle of the use was established by that permission. The building has remained vacant since then. This application provides a larger floor area which should be more viable for development. In addition, land to the rear has been acquired to allow the formation of an exterior seating area.

The site lies within the District Centre where restaurants are expected to be located and are supported by the relevant policies in the Dundee Local Plan and the Finalised Dundee Local Plan Review. The strict distance requirements to residential properties in Policy LT8 are relaxed in the proposed Policy 53 in recognition of

this and the proposal complies with the policy in the Finalised Local Plan.

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

Design

This traditional building within the Conservation Area is proposed to be retained and maintained in acceptable alternative uses. Replacement windows are proposed and full details will be required by condition.

CONCLUSION

The restaurant use is contrary to one policy in the Development Plan. The whole development is in accordance with the policies in the Finalised Local Plan Review. The objection cannot be supported in this instance. It is considered that in view of the beneficial use of a traditional building within the Conservation Area and the location of the site within the District Centre, the proposal is acceptable subject to appropriate planning conditions.

Advisory Note: For the avoidance of doubt, the use hereby approved is for a restaurant in accordance with Class 3 of the Town and Country Planning (Use Classes)(Scotland) Order 1997 as amended.

RECOMMENDATION

It is recommended that planning permission 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 Prior to the commencement of any development at the site, full details of the proposed ventilation/extract system shall be submitted to the City Council for approval and if approved, the works shall be carried out only in accordance with such approved details, prior to the commencement of the use hereby approved.

- 3 Total noise from all mechanical/electrical services shall not exceed NR35 as measured 1 metre external to the façade of the nearest residential accommodation.
- 4 The ventilation/extract filter system as approved in accordance with Condition 2 shall be installed, maintained and operated in accordance with the manufacturer's recommendations.
- 5 details of the proposed replacement windows shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 6 Full details of the proposed boundary wall around the rear seating area shall be submitted to the City Council for approval prior to any construction of the wall and if approved, the wall shall be completed only in accordance with such approved details.

Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of the amenities of the occupiers of nearby properties.
- 3 In the interests of the amenities of the occupiers of nearby properties.
- 4 In the interests of the amenities of the occupiers of nearby properties.
- 5 In order to safeguard the visual amenity of the Conservation Area.
- 6 In order to safeguard the visual amenity of the Conservation Area.