

**KEY INFORMATION**

Ward Broughty Ferry

**Proposal**

Change of Use from  
Courtyard to Beer Garden

**Address**

54-62 Fort Street  
Broughty Ferry  
Dundee

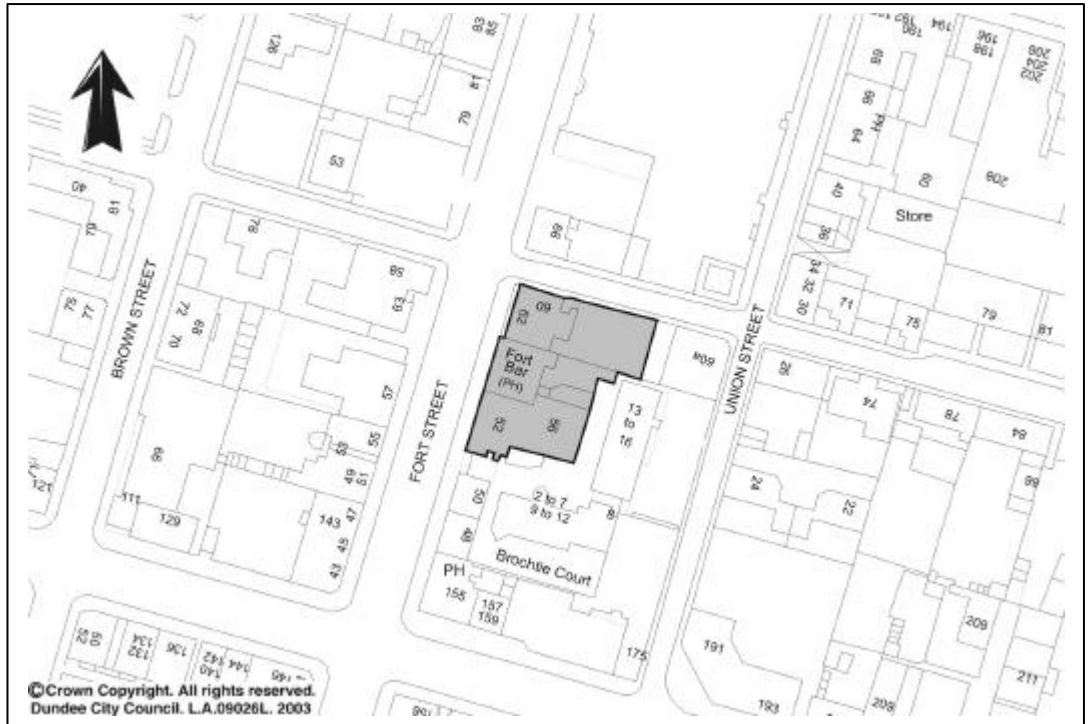
**Applicant**

Mr J Black  
The Fort Hotel  
54-62 Fort Street  
Dundee  
DD5 2AB

**Agent**

Registered 25 Jan 2006

Case Officer J Young



## Beer Garden Proposed to Rear of the Fort Hotel

The Change of Use from Courtyard to beer garden is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development is contrary to Policy 1 of the Dundee Local Plan Review 2005 and the objections are supported in these circumstances. Accordingly the application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- Planning permission is sought for change of use from courtyard to form a beer garden to the rear of a public house at 54-62 Fort Street, Broughty Ferry, Dundee.
- The premises are located within the Broughty Ferry Conservation Area. The application was advertised as a bad neighbour development.
- Eight letters of objection were received from adjacent neighbours who have concerns about potential noise problems, litter problems, safety, adverse impact on character of area, vandalism and parking problems.
- It is considered that the proposed beer garden will have an adverse impact on the amenity of adjacent residents due to potential noise problems.

**DESCRIPTION OF PROPOSAL**

Planning permission is sought for change of use from courtyard to beer garden to the rear of a public house at 54-62 Fort Street, Broughty Ferry. The proposal includes the installation of a timber canopy within an external area to the rear of the public house building. The canopy will have a diameter of 3.6m and a 2.4m high supporting column. The applicant has indicated in writing that he proposes to heighten the height of the boundary walls on the north elevation to prevent people entering the beer garden from Long Lane. There will only be one entrance to the beer garden from the public house. The opening hours proposed for the beer garden are until 9pm. It has also been indicated that there will be five four seater tables and chairs within the beer garden.

Policy 1: Vibrant and Sustainable Communities - 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

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

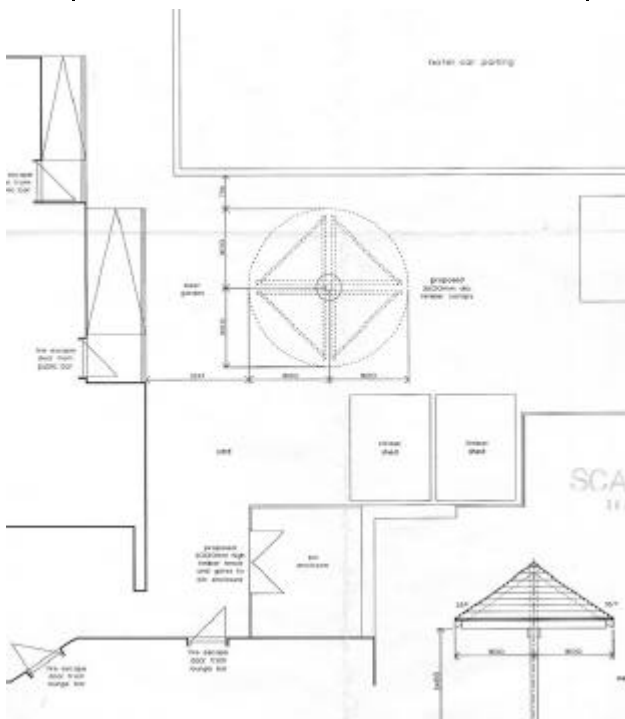
There are no non statutory Council policies relevant to the determination of this application.

**LOCAL AGENDA 21**

The proposal does not comply with Key Theme 8: "Health is protected by creating safe, clean, pleasant environments..." or Key Theme 15: Diversity and Local Distinctiveness are Valued and Protected.

**SITE DESCRIPTION**

The application site is located to the rear of a public house at 54-62 Fort Street, Broughty Ferry. At present it is an external courtyard area, where bins are stored. There are three timber sheds within the courtyard area. Two fire exits are located to the west of the application site. The courtyard can be accessed by a gate from Long Lane to the north. There is a stone and blockwork wall approximately 1.5m high along the north boundary. There are private car parking spaces immediately to the north of the site. A three storey flatted development overlooks the application site from an easterly direction. There are flatted developments to the north west, north east and south of the site.



residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Policy 61: Development in Conservation Areas - Within

**SITE HISTORY**

There is no site history of direct relevance to the application site.

**PUBLIC PARTICIPATION**

The application was advertised as a bad neighbour development in the Dundee Courier.

Statutory neighbour notification was carried out and eight letters of objection were received on the grounds of the adverse impact on residential amenity due to potential noise disturbance, litter problems, safety, adverse impact on character of area, vandalism and parking problems.

Copies of the objection letters are available for viewing in the Members' Lounges and will be considered in more detail in the Observations.

**POLICY BACKGROUND**

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan Review 2005

The following policies are of relevance:

Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area.



**CONSULTATIONS**

The Head of Environmental Health and Trading Standards advises that the proposed development will encourage people to congregate in a specific area which has not previously been used, thereby elevating the existing noise

burden on those flats in close proximity.

If Members are minded to approve the application a condition should be attached to ensure that no entertainment (music, vocals, amplified or otherwise, including TV) should be provided in the development area.

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## OBSERVATIONS

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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 1 seeks to protect the environmental quality enjoyed by local residents. It is considered that the proposal which is to form a beer garden will result in an unacceptable level of amenity due to people congregating in one specific area during the opening hours of the public house and will subsequently result in noise disturbance for nearby residents. There are flats at Brochtie Court (to the east) which directly overlook the courtyard. This area has previously been unused by the public or patrons of the public house and it is considered that noise disturbance will be a problem for these residents. Therefore the proposal does not comply with Policy 1.

The site lies within the Broughty Ferry Conservation Area and the proposal is located to the rear of the property. The application site is currently a courtyard area, which is used for bin storage and as a fire escape route from the premises. It is not considered that the erection of a freestanding timber canopy will detract from the appearance of this elevation of the building or of the surrounding area. Therefore it is considered that the proposal complies with Policy 61 of the Dundee Local Plan Review 2005,

which seeks to preserve or enhance the character of the area.

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:

### Objections

Eight neighbouring residents have raised objections on the grounds of the adverse impact on residential amenity due to potential noise disturbance, litter problems, safety, adverse impact on character of area, vandalism and parking problems. As discussed above, it is agreed that there is potential for the proposal to adversely affect the amenity enjoyed by adjacent residents due to noise disturbance. However it is not considered that the proposal will cause litter problems, contribute to vandalism, affect safety in the area or contribute to parking problems in the area. Therefore the objections are supported in these circumstances.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the exceptional grant of planning permission, where the proposal contravenes the development plan. It is therefore recommended that planning permission be refused.

## Design

It is considered that the proposed freestanding timber canopy which will be located to the rear of the existing public house will not have an adverse visual impact on character of the building or surrounding area.

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## CONCLUSION

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The proposal is contrary to Policy 1 of the Dundee Local Plan Review 2005 due to the adverse impact on a residential amenity due to potential noise disturbance. The objections are supported in these circumstances. There are no material considerations that would justify approval of the application contrary to the development plan. Therefore the application is recommended for REFUSAL.

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## RECOMMENDATION

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It is recommended that planning permission be REFUSED for the following reason(s):-

## Reasons

- 1 The proposal is contrary to policy 1 of the Dundee Local Plan Review 2005 on the grounds of the adverse impact on residential amenity due to potential noise disturbance. There are no material considerations that would justify approval of the application contrary to the Development Plan.