

**KEY INFORMATION**

**Ward** Broughty Ferry

**Proposal**  
Proposed Canopy to Provide Smoking Area

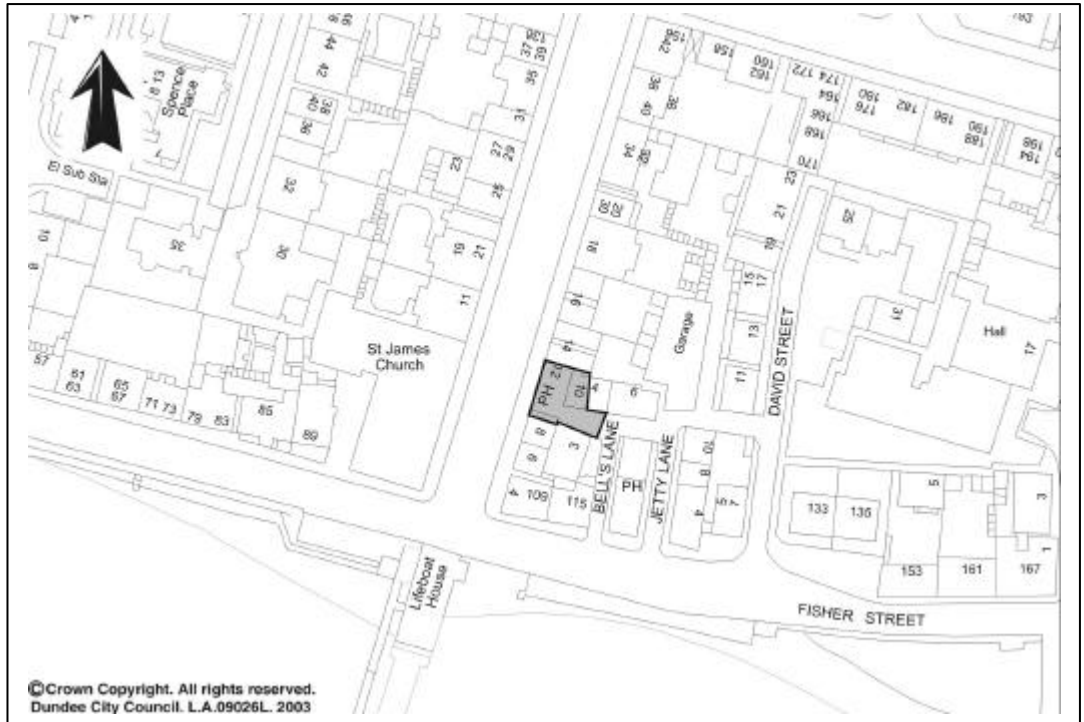
**Address**  
Fisherman's Tavern  
10-16 Fort Street  
Broughty Ferry

**Applicant**  
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**Registered** 27 February 2006

**Case Officer** J Young



# Back and Front Smokers' Canopies proposed for the Fisherman's Tavern

Proposed canopy to provide smoking area is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposal is contrary to Policies 1, 60 and 61 of the Dundee Local Plan Review 2005. The objections are supported in these circumstances. Accordingly, the application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- Planning permission is sought for elevational alterations to form smokers' canopies on the front and rear elevations of a public house at 10-16 Fort Street, Broughty Ferry, Dundee.
- The premises are a C(s) listed building and are located within a Conservation Area.
- Two letters of objection were received from an adjacent neighbour and a resident of Dundee who have concerns about potential noise problems due to people gathering outside the premises and the impact on the area.
- It is considered that the proposed smokers' canopies will have an adverse impact on the character and appearance of the listed building and conservation area and on the amenity of adjacent residents due to potential noise problems.

## DESCRIPTION OF PROPOSAL

This application seeks planning permission for two external canopies to provide smoking areas on the front and rear elevations of The Fisherman's Tavern at 10-16 Fort Street, Broughty Ferry, Dundee. The proposal includes the installation of a 5.3m wide box containing the canopy and it will protrude 2m from the front of the building, when fully open. It will be located 2.25m above the footway and over 3 windows on the front elevation and immediately to the south of the front entrance door. The proposed canopy on the rear elevation will be within a 4.7m wide box and extend 2m from the building, when fully open. It will be located 2m from ground level and above a rear doorway and two windows. The frame of the canopies will be white and the canopy itself will be a buff colour.

The proposal is designed to provide an area for those patrons of the public house who wish to smoke, in light of the new Legislation that bans smoking in public houses and other public places from the 26 March 2006.

## SITE DESCRIPTION

The application site is a two storey traditional public house with cream painted stonework, grey basecourse, slate roof and red painted timber sash and case windows and doors. There is a red painted fascia sign on the front elevation with gold individual lettering. There is a single storey section on the rear elevation with slate roof, pink painted harled wall and grey basecourse. There are two windows and a doorway on the rear elevation with iron grilles. Bins are stored next to the rear doorway. There is a hotel within the premises, with rooms on the ground and first floors.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

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

### Dundee City Council Development Quality Committee

### Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 1: Vibrant and Sustainable



EAST ELEVATION

Communities seeks to minimise any effect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Policy 60: Alterations to Listed Buildings - will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character.

Policy 61: Development in



WEST ELEVATION

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

## 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 HISTORY

There is a partner listed building application on this agenda and it is recommended for refusal.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and two letters of objection were received on the grounds of the adverse impact on residential amenity due to potential noise disturbance and adverse impact on the character of the area. Copies of the objection letters are available for viewing in the Members' Lounges and will be considered in more detail in the Observations below.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that the proposed development is designed to accommodate those patrons of the premises who wish to smoke. This will encourage people to congregate in a specific area, thereby resulting in the predictable consequence of an elevated noise burden on those residential properties in the absolute proximity of the development. 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.

## 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.

In terms of Policy 1 of the Dundee Local Plan Review 2005, it is considered that the design of the proposal is not appropriate for this building as it will detract from the character of the building and surrounding area. As there are residential properties adjacent to the public house on both the front and rear elevations, it is considered that the canopies will result in the congregation of a number of people in a specific area during opening hours for smoking purposes and therefore this will have an adverse impact on residential amenity due to noise and smell. For these reasons it is considered that the proposal does not comply with Policy 1 of the Dundee Local Plan Review 2005.

New legislation came into force on March 26th 2006 which introduces a ban on smoking in public places. This proposal has been designed to provide a designated area for those patrons of the public house who wish to smoke, in light of this new legislation. The applicant has not indicated that he intends for the proposed smoking area to be licensed.

The proposed smoking areas are located adjacent to front and rear doorways of the public house. Retractable canvas canopies will be attached to the wall above the doorways and will protrude 2m from the building.

Policy 60 of the Dundee Local Plan Review 2005 states that alterations to listed buildings will only be acceptable

where the proposals have regard to the preservation or enhancement of its architectural or historic character. It is considered that the installation of canopies on the front and rear elevations will detract from the historic and architectural character of the listed building. Canopies are normally only acceptable where they are serving a purpose of protecting items within a shop window, which is not the case in these circumstances.

Policy 61 states that all development proposals will be expected to preserve or enhance the character of the surrounding area. As discussed above, the alterations to the frontage of the public house are considered unacceptable and will detract from the character of the conservation area.

From the foregoing it is concluded that the proposal does not comply with the provisions of Policies 1, 60 and 61 of the Dundee Local Plan Review 2005.

## Other Material Considerations

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

The Memorandum of Guidance on Listed Buildings and Conservation Areas

This provides guidance on the acceptability of proposed developments. Paragraph 2.21 notes that it is not merely the building itself but also its contribution to the street scene. The building is located within Broughty Ferry Conservation Area and makes a valuable contribution to the character of the area at this location.

It is concluded from the foregoing that the statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 would not be satisfied by the approval of this proposal.

## Objections

Two letters of objection were received on the grounds of the adverse impact on residential amenity due to potential noise disturbance and adverse impact on the character of the area. It has been discussed under the Policy section above that the proposal has the potential to adversely affect residential amenity due to noise and smell and will adversely affect the visual appearance of the building and conservation area. Therefore the objections are supported in these circumstances.

It is concluded from the foregoing that insufficient weight can be accorded to any material consideration such as to justify the grant of planning permission, where the application contravenes the Development Plan. It is therefore recommended that planning permission be refused.

## Design

The design of the canopies is considered unacceptable for this listed building.

## CONCLUSION

The proposal does not comply with Policies 1, 60 and 61 of the Dundee Local Plan Review 2005 due to the potential adverse impact on residential amenity due to noise and smell and the adverse visual impact on the building. The objections are supported in this instance. Therefore the application is recommended for REFUSAL.

## RECOMMENDATION

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 due to the adverse impact on residential amenity due to noise and smell. There are no material considerations that would justify approval of the application contrary to the Development Plan.
- 2 The proposal is contrary to Policies 60 and 61 of the Dundee Local Plan Review 2005 due to the adverse visual impact on the character of the listed building and surrounding conservation area. There are no material considerations that would justify approval of the application contrary to the Development Plan.