

KEY INFORMATION

Ward Tay Bridges

Proposal

Proposed awning/canopy to provide smoking area on front elevation

Address

165-167 Perth Road
Dundee
DD2 1AS

Applicant

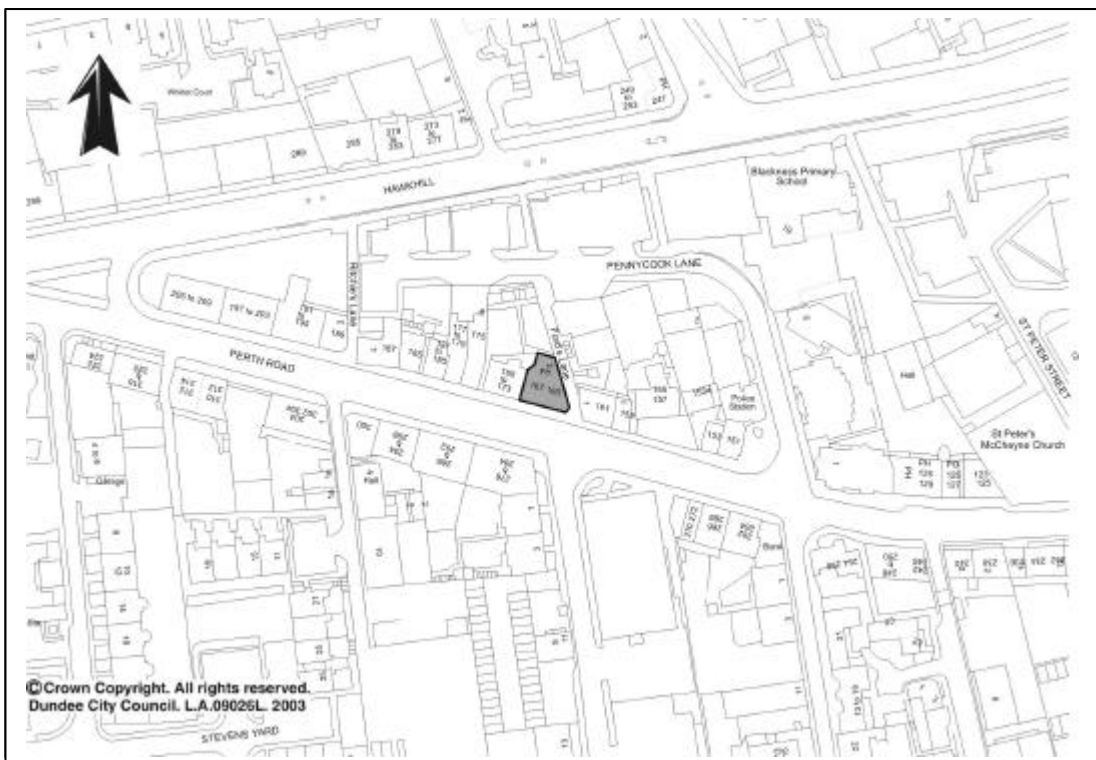
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Agent

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Registered 27 Feb 2006

Case Officer Eve Jones



Awning and Smoking Area at Listed Pub in Perth Road

The proposed awning/canopy to provide a smoking area on the front elevation is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

It is concluded that the proposed development does not comply with the provisions of Policies 1, 60 and 61 of the Dundee Local Plan 2005 or the Memorandum of Guidance on Listed Buildings and Conservation Areas. The views of the objectors are supported in these circumstances. It is recommended that planning permission be **REFUSED**.

SUMMARY OF REPORT

- Planning permission is sought for the installation of an awning on the front elevation of the building to provide a smoking area. The awning is 7.1 metres long and will project 2.5 metres across the footway. The proposed smoking area will not be licensed.
- The application site is a traditional public house occupying the ground floor of a 4 storey, stone built tenement on the north side of Perth Road and west of Ford's Lane. It is a B-listed building. The frontage to Perth Road is original and has large plate glass windows with Art Nouveau etching and original lettering on both the frontage and the fascia.
- The proposal does not comply with Policies 1, 60 and 61 of the Dundee Local Plan Review 2005. Residents are likely to be affected by noise and smell, the development would have a detrimental impact on the character of the Listed Building and the Conservation Area and the congregation of patrons on the narrow busy footway would be likely to be detrimental to pedestrian and vehicle safety.
- 4 letters of objection were received on the grounds that the proposed smoking area will increase noise impact on residents, smoke will affect residents and passers by, impact on the environment and possible anti-social behaviour. The objections are supported.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the installation of an awning on the front elevation of the building to provide a smoking area. The awning will be housed in an external box, 7.1 metres long and 211mm x 205mm, attached to the fascia. The awning will project 2.5 metres across the footway and is located 3.7 metres above the footway. The applicant's agent has indicated that the proposed smoking area will not be licensed. There is no indication of heating or lighting on the plans.

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 which bans smoking in public houses and other public places.

SITE DESCRIPTION

The application site is a traditional public house occupying the ground floor of a 4 storey, stone built tenement on the north side of Perth Road and west of Ford's Lane. It is a B-listed building. The frontage to Perth Road is original and has large plate glass windows with Art Nouveau etching and original lettering on both the frontage and the fascia describing the premises as a "Wine and Whisky Merchant", "Importer of Foreign Wines & Spirits" etc.

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 policy is of relevance:

Policy 1: Vibrant and Sustainable 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 Conservation Areas will be expected to

preserve or enhance the character of the surrounding area.

Scottish Planning Policies, Planning Advice Notes and Circulars

The Memorandum of Guidance on Listed Building and Conservation Areas issued by Historic Scotland is of relevance to 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

06/00131/LBC is a partner listed building application, which is on this Agenda with a recommendation for refusal.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and 4 letters of objection were received on the grounds that the proposed smoking area will increase noise impact on residents, smoke will affect residents and passers by, impact on the environment and possible anti-

social behaviour. Copies of the objection letters are available for inspection in the Members' Lounges.

The issues raised will be discussed in further detail in the "Observations" section of this report.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that the premises are situated directly beneath residential accommodation and groups of individuals congregating to smoke beneath the windows of living apartments is likely to give rise to disturbance to residents and noise complaints. The premises have a regular extension to their license permitting liquor to be served until 0000hrs.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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, the application raises issues in terms of design and layout, traffic movement issues, noise and smell.

The proposed smoking area is located on the front elevation of the building. The size, style and position of the awning will have a detrimental impact on the appearance of this fine traditional building. The nearest flatted properties are immediately above the site. This development has the potential to affect residents by reason of noise and smell. The Head of Environmental Health and Trading Standards supports this view. The site lies within the busy Perth Road District Centre at a point where customers stand to wait for taxis. The footway is not wide at this point and

there is a high level of pedestrian traffic at all hours of the day and well into the evening. It is likely that the size and position of the proposed awning would encourage significant numbers of patrons to gather beneath the awning to the detriment of the passage of pedestrians on the footway and with the potential for pedestrians to walk on to the road to avoid such large groups to the detriment of pedestrian and vehicular safety.

It is considered for the above reasons that the proposed development does not comply with Policy 1.

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. The proposed projecting awning in its external box will have a detrimental impact on the architectural and historic character of this original public house building. The awning will obscure the important details of the frontage, will detract from its character and will be an incongruous feature on the original fascia. It is considered that the proposed development does not comply with Policy 60.

Policy 61 states that all development proposals will be expected to preserve or enhance the character of the surrounding area. As detailed above, the proposed installation of an awning on the frontage of the public house is not acceptable and it is considered that it will not preserve the character of the conservation area. It is considered that the proposed development does not comply with Policy 61.

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 Memorandum of Guidance on Listed Building and Conservation Areas provides guidance on the acceptability of proposed developments. Paragraph 2.21 notes that it is not merely the building itself which is important but also its contribution to the street in which it stands. This building is in a prominent central location and makes a significant contribution to the character of Perth Road in this vicinity.

It is also 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

The objectors are concerned about an increase in noise and smell issues emanating from the proposed external smoking area to the front of the public house, the impact on the environment and restrictions on the use of the footway by pedestrians. These issues are discharged in the policy section above. Objectors also raise the question of anti-social behaviour which is partly covered by the above issues. The terms of the objections are supported.

It is concluded from the foregoing that insufficient weight can be accorded to any material considerations such as to justify an exceptional grant of planning permission in the face of the proposal's contravention of the development plan.

Design

The issues of design have been addressed in the foregoing observations.

CONCLUSION

It is concluded that the proposed development does not comply with the provisions of Policies 1, 60 and 61 of the Dundee Local Plan 2005 or the Memorandum of Guidance on Listed Buildings and Conservation Areas. The views of the objectors are supported in these circumstances. It is recommended that planning permission be REFUSED.

RECOMMENDATION

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

Reasons

- 1 The proposed development is contrary to Policy 1 - Vibrant and Sustainable Communities of the Dundee Local Plan Review 2005 as the size, design and location will be detrimental to the appearance of the building; the awning will encourage patrons to congregate on the footway to the

detriment of pedestrian and vehicular safety and the use of the proposed awning will be likely to result in increased noise and smell to local residents. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.

- 2 The proposed development is contrary to Policy 60 - Alterations to Listed Buildings of the Dundee Local Plan Review 2005 as it does not preserve or enhance the architectural or historic character of the building and will diminish the architectural integrity of the building and its historic interest. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 3 The proposed development is contrary to Policy 61 - Development in Conservation Areas of the Dundee Local Plan Review 2005 as it does not preserve or enhance the character of the area. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.