

KEY INFORMATION

Ward East Port

Proposal

Formation of beer garden and external alterations

Address

5A Raglan Street
DUNDEE
DD4 6NT

Applicant

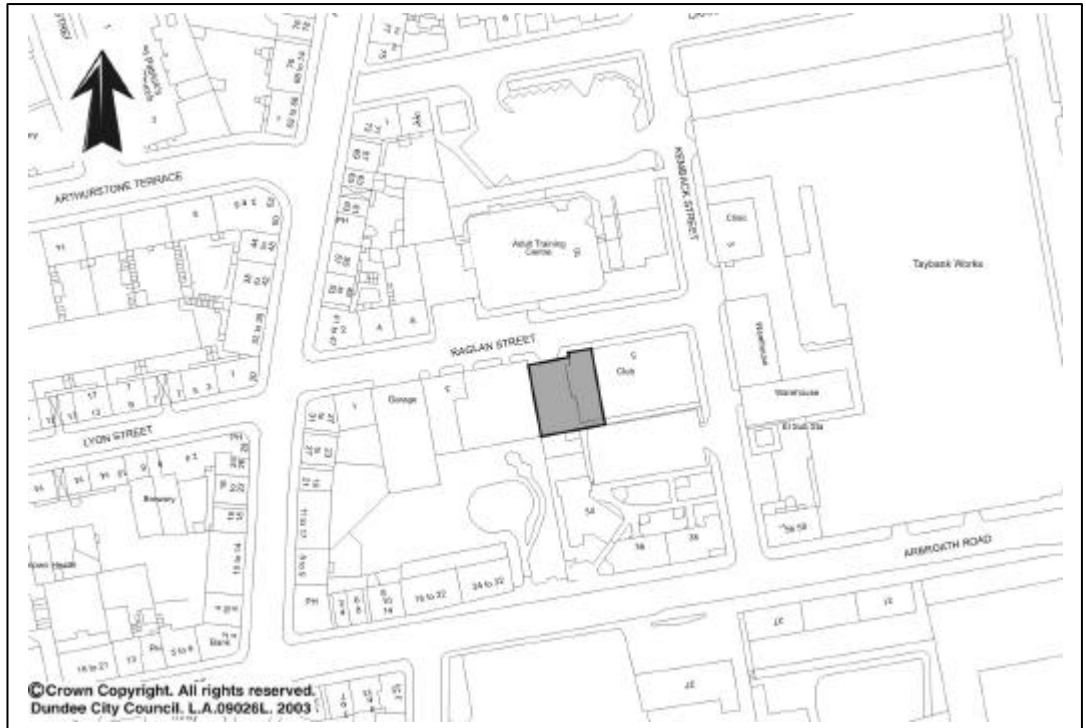
67 Club
5A Raglan Street
DUNDEE DD4 6NT

Agent

ARKTX Chartered Architects
187 Strathmartine Road
DUNDEE DD3 8BL

Registered 11 Sept 2006

Case Officer J Young



Proposed Beer Garden and Canopy in Raglan Street

Formation of beer garden and external alterations is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal does not comply with Policy 53 of the Dundee Local Plan Review 2005 and it is considered that there are no material considerations to justify approval of the application. Accordingly, the application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for an extension on the south elevation of a social club at 5A Raglan Street to provide a beer garden and designated smoking area. The development consists of the erection of a 5.5m wide canopy on the west elevation. The external area will be enclosed by a brick wall approximately 0.65m high. Disabled access will be provided from the site into the social club.
- Policies 1 and 53 of the Dundee Local Plan Review 2005 are relevant to the determination of the proposal. The nearest residential properties are 23m to the south of the application site and so the proposal is contrary to Policy 53.
- 20 letters of objection were received from residents to the south on the grounds of noise disturbance.
- It is considered that the proposal will result in unacceptable noise levels for neighbouring residents and the proposal, which is contrary to the development plan, cannot be supported.

DESCRIPTION OF PROPOSAL

Planning permission is sought for an extension on the south elevation of a social club at 5A Raglan Street to provide a beer garden and designated smoking area for patrons. The development consists of the erection of a canopy, measuring 5.5m wide and extends 1.4m from the face of the building. The external area will be enclosed by a 0.65m high brick wall and disabled access to the building will be provided from the site area. The dimensions of the proposed beer garden area are 5.8m by 4.2m. Landscaped beds will be located around the boundary of the beer garden.

SITE DESCRIPTION

The application site is located on the south side of Raglan Street and west side of Kemback Street. It is a single storey social club building with cream painted frontage, white harled walls, aluminium clad roof and some tiled roof sections. The site is currently used as a private parking area and there are high metal gates enclosing the site on the north boundary and a high stone wall along the west and south boundaries. There is housing to the south and a housing development site, which is currently being developed, to the east (on the opposite side of Kemback Street). A childrens' nursery is located to the west and an adult learning centre to the north, on the opposite side of Raglan Street.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

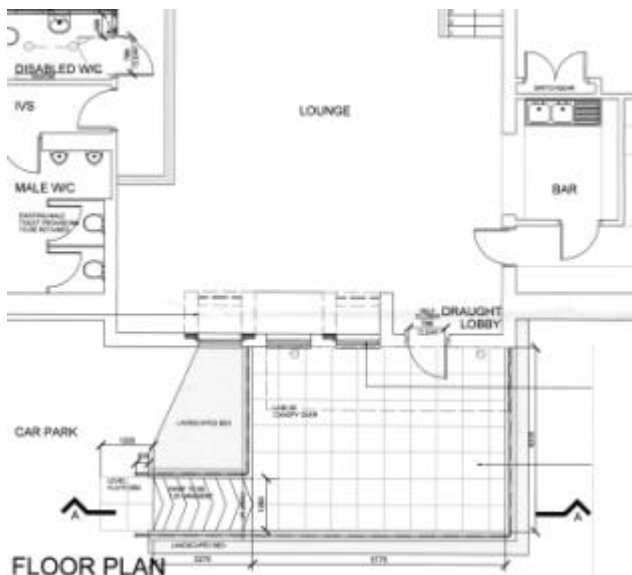
Dundee Local Plan 2005

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities

The City Council will promote vibrant communities, encouraging 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 affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.



Policy 53: Licensed and Hot Food Premises Outwith the City Centre

In general, outwith the District Centres no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food is acceptable:

- a within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace (excluding cellar space) and;
- b within 45 metres if the 150 square metre figure is exceeded.

residential property may be appropriate. However, proposals for hot food takeaways other than those outlined below, will not be permitted in premises directly adjoining (i.e. directly above or to either side) residential property which is not within the control of the takeaway proprietor/operator.

Where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above requirements these may be permitted subject to:

- a the hours of operation being limited to between 7.00 am and 7.00 pm, and,
- b the hot food not requiring to be prepared on the premises and only requiring heating by means of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.

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.

SUSTAINABILITY ISSUES

This application raises sustainability policy issues relating to the potential for adverse impacts on surrounding residents due to noise matters. This is discussed in greater detail below.

SITE HISTORY

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



In the District Centres some relaxation of the above controls on distance from

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and 20 letters of objection were received from neighbouring residents to the south with concerns regarding noise disturbance.

Other concerns were raised regarding the impact on house prices but this is not a planning matter.

Copies of the objection letters are available for viewing in the various Members' Lounges. The objections will be discussed further in the "Observations" below.

The application was advertised as a bad neighbour development in the Dundee Courier on 19th September 2006 and as contrary to Policy 53 of the Dundee Local Plan Review 2005 on 16th October 2006.

CONSULTATIONS

The Head of Environmental Health and Trading Standards has highlighted concerns about potential noise problems from the proposed external extension. This will encourage people to congregate in a specific area and result in the predictable consequence of an elevated noise burden on those residential properties in the absolute proximity of the development. It is possible that music from the premises would be audible for nearby residents. If Members are minded to approve the application, it is advised that a condition to restrict the hours of use of the beer garden from 12pm to 9pm is imposed and a temporary consent imposed in order that the situation can be monitored.

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 1 of the Dundee Local Plan Review 2005 seeks to protect the environmental quality enjoyed by local residents. It is considered that the proposal, which is to form a beer garden could result in an unacceptable level of amenity for nearby residents during night-time hours. The nearest residential properties are approximately 23m to the south of the application site and it is considered that noise disturbance could be a potential problem for these residents during night-time. The Head of Environmental Health and Trading Standards recognises that there is a potential noise problem for neighbouring residents and advises that a condition is imposed to restrict the use of the beer garden beyond 9pm. In addition, a temporary consent for one year will allow the Council to monitor the situation. Given that the proposed beer garden can also be used by smokers, it is possible that it could be used outwith the hours of licensing for the beer garden. This has the potential to raise noise issues for residents as doors are opened and noise escapes from the premises. The conditions advised by the Head of Environmental Health and Trading Standards would not be sufficient to address the noise concerns. It is considered that the proposal has the potential to increase noise disturbance for residents, so the proposal is contrary to Policy 1.

Policy 53 states that no licensed premises are acceptable within 45m of existing and proposed residential properties. As discussed, the site is approximately 23m from the nearest residential properties and there is potential for increased noise disturbance for neighbours. It is considered that the amenity of residents will be adversely affected by the proposal and so it does not comply with Policy 53.

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

20 letters of objection were received from residents to the south of the application site. The issues raised are discussed in detail below.

Noise disturbance from music

As previously discussed the nearest residential properties are approximately 23m to the south of the proposal site and there is a stone wall approximately 2m high along the south boundary of the site. The site is currently a private car parking area with an emergency exit door on the west elevation of the building. It is considered that a condition to restrict the hours of use of the beer garden and a temporary consent for one year would not be sufficient to address the concerns raised by objectors.

It is concluded that there are no material considerations to justify planning permission being granted for the proposal which is contrary to the provisions of the Development Plan. It is therefore recommended that planning permission be refused.

Design

The design of the beer garden with a low boundary wall is considered acceptable.

CONCLUSION

The proposal is contrary to Policies 1 and 53 of the Dundee Local Plan Review 2005. The views of the objectors regarding noise are supported. It is recommended that planning permission be REFUSED.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:-

Reasons

- 1 The proposal is contrary to Policy 1 of the Dundee Local Plan Review 2005 due to the adverse impact on the environmental quality enjoyed by local residents due to potential noise disturbance from the application premises. There are no material considerations that would justify approval of the proposal contrary to the development plan
- 2 The proposal is contrary to Policy 53 of the Dundee Local Plan Review 2005 as the nearest residential properties are within 30metres of the proposal site and there is potential for an adverse impact on residential amenity due to noise disturbance. There

are no material considerations that would justify approval of the proposal contrary to the development plan.