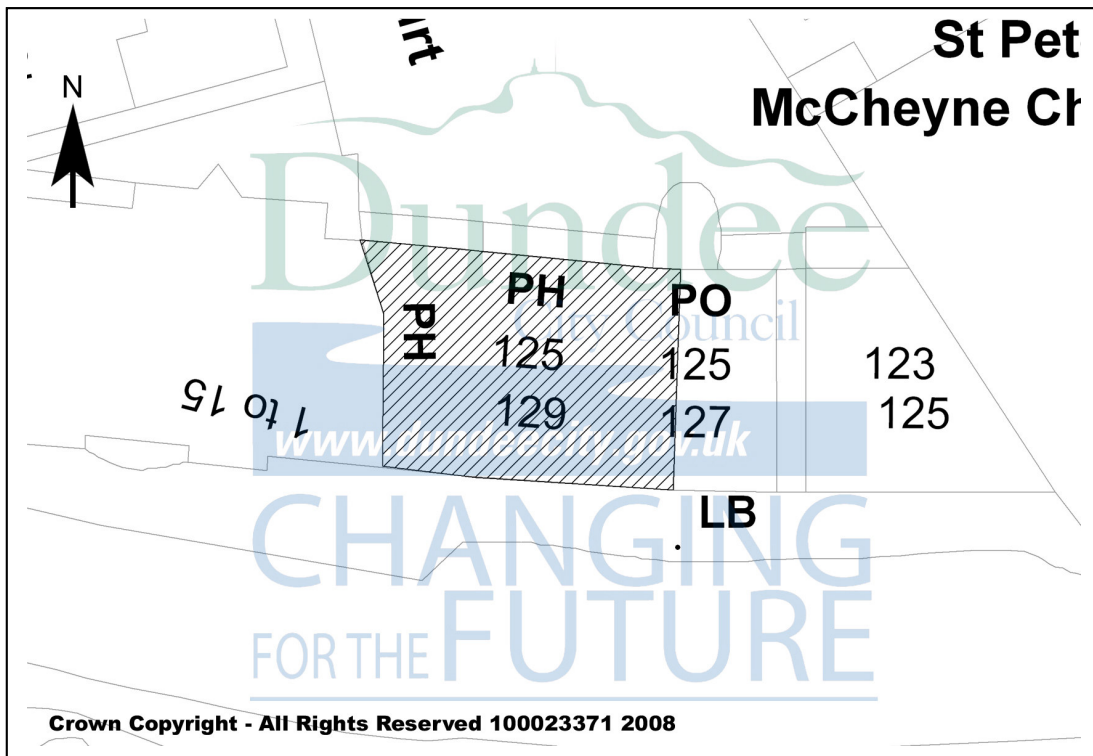


**KEY INFORMATION**

Ward West End

**Proposal**Change of Use from  
Pavement to External  
Drinking Area**Address**127A-129 Perth Road  
Dundee  
DD1 4JD**Applicant**The Commercial Pub Co  
Belsize House  
Belsize Road  
Broughty Ferry  
Dundee  
DD5 1NS**Agent**Nicoll Russell Studios  
111 King Street  
Broughty Ferry  
Dundee DD5 1EL**Registered** 23 June 2008**Case Officer** B Knox

## Proposed External Drinking Area in Perth Road

A Change of Use from a Pavement to an External Drinking Area is **RECOMMENDED FOR REFUSAL** Report by Director of Planning and Transportation

**RECOMMENDATION**

It is considered that the application fails to comply with Policy 1 of the Dundee Local Plan Review 2005. There are no material considerations that would justify a decision contrary to this. The application is recommended for REFUSAL.

**SUMMARY OF REPORT**

- Planning permission is sought for an external seating area on the footpath adjacent to the public house at 1127-129 Perth Road, Dundee.
- The seating area will be located to the south of the public house. It will measure approximately 3.6 metres by 1.3 metres and will provide seating for six covers.
- The proposal has been the subject of 6 letters of objection and 1 petition containing 8 signatures
- It is considered the proposal does not comply with Policy 1 and there are no material considerations that would justify approval of the application. The application is recommended for REFUSAL.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for an external seating area on the footpath adjacent to the public house at 1127-129 Perth Road, Dundee. The seating area will be located to the south of the public house. It will measure approximately 3.6 metres by 1.3 metres and will provide seating for six covers.

## SITE DESCRIPTION

The application site is located on the Perth Road, in the west end of the city. The application property is a public house which occupies the ground floor of part of a larger block. There is a separate flatted development to the west of the site which is of modern appearance. There are further flatted properties above the application site. The ground floor to the east is occupied by the Post Office also with flatted properties above.

The site is located within the District Centre as defined in the Dundee Local Plan Review 2005 and as such there are a variety of uses to the ground floor units that might be typically expected in such an area. For example, Post Office, café and the application site a public house.

The application site is also located within the West End Lanes conservation area.

## 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:

### 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.

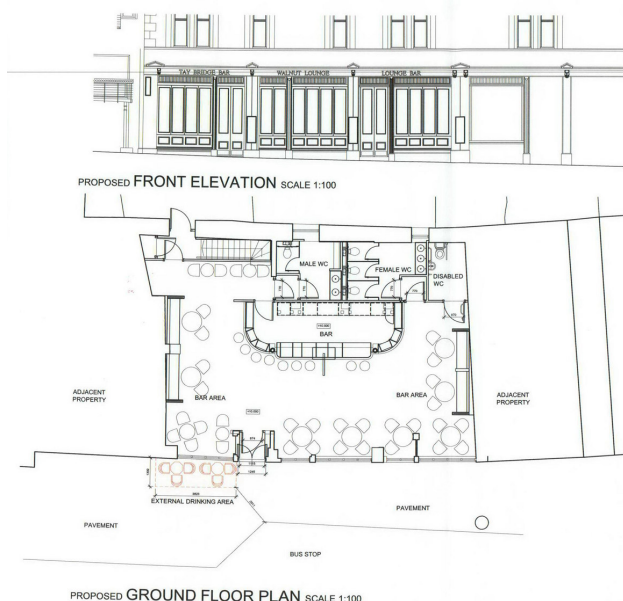
### Scottish Planning Policies, Planning Advice Notes and Circulars



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

There are no specific sustainability policy implications arising from this application.

## SITE HISTORY

Dundee City Council was consulted by Historic Scotland regarding a proposal for the Listing of the application property in March 2008. It was considered that this proposal could be supported due to the internal features.

The proposal to implement a Listing upon the property had not been formally progressed by Historic Scotland at the time of the submission of the proposal and of writing this report and as such the building has not been included on the Statutory List of Protected Buildings.

There are plans to alter the existing building both internally and externally and these alterations are the subject of a separate planning application.

## PUBLIC PARTICIPATION

The proposal has been the subject of 6 letters of objection and 1 petition containing 8 signatures. The points of concern raised relate to:

- The proposal will result in a noise nuisance to nearby residential properties
- The proposal will cause access problems to nearby residents and will impact upon the safety of pedestrians due to the reduced width of pavement
- It will cause a fire hazard
- It will lead to the devaluation of nearby properties
- The proposal detracts from the Conservation Area

## CONSULTATIONS

No adverse comments have been received from any of the consultees.

## 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 an external seating area which it is assumed will be primarily for smokers, will result in an unacceptable level of noise for nearby residents. Patrons will congregate in a currently unused area during the opening hours of the public house and this will subsequently result in noise disturbance for adjacent residents. The site is surrounded by residential properties at both ground and upper floor levels. There are flatted properties located directly above the public house and immediately to the west and east of the site. It is considered that noise disturbance will be a potential problem for these residents. It is considered the proposal does not comply with Policy 1.

### Other Material Considerations

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

The views of the objectors:

- The proposal will result in a noise nuisance to nearby residential properties
- This matter has already been discussed in the Observations Section above. The views of the objector in this respect are supported.
- The proposal will cause access problems to nearby residents and will impact upon the safety of pedestrians due to the reduced width of pavement

- The plans indicate that there will be two tables, each with three chairs. The pavement narrows to the east of the proposed seating due to a bus stop and there is a distance of approximately 2 metres from the edge of the proposed seating area to the edge of the footpath. Two metres is the distance that is required to be kept free for pedestrians and whilst the proposed seating area is in compliance with this, the drawing assumes the seating will be pushed hard up against the tables. Clearly, with patrons occupying these seats this will not be possible and the distance of 2 metres will be reduced. It is therefore considered that the proposal for three seats and particularly those at the south edge of the seating area, will impede the safe passage of pedestrians in this area.

- The proposal detracts from the Conservation Area
- It is not considered that the proposal for seating of this nature would detract from the character of the conservation area.
- It will cause a fire hazard
- It will lead to the devaluation of nearby properties

These are not material planning considerations.

It is concluded from the foregoing that insufficient weight can be accorded to any of 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 refused.

## CONCLUSION

It is concluded that the proposal fails to comply with Policy 1 of the Dundee Local Plan Review 2005. The views of the objectors are upheld. There are no material considerations which would justify a decision contrary to the Development Plan. The application is therefore recommended for REFUSAL.

## RECOMMENDATION

It is recommended that consent 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 design and location will encourage patrons to congregate on the footway to the detriment of pedestrian and vehicular safety and the use of the proposed seating will be likely to result in increased noise to local residents. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 2 The proposal for three seats and particularly those at the south edge of the seating area, will impede the safe passage of pedestrians in this area.