

KEY INFORMATION

Ward The Ferry

Proposal

Change of use from Snooker Club to Restaurant

Address

Gulistan Tandoori
Restaurant
Queen Street
Broughty Ferry
Dundee

Applicant

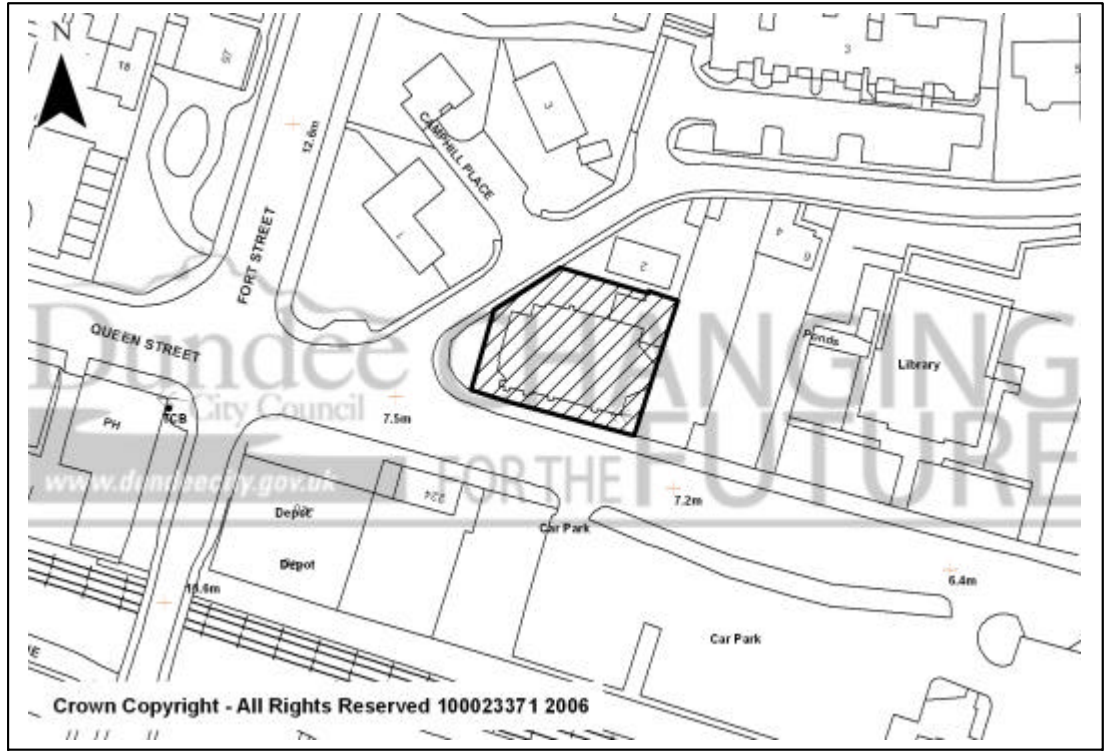
Mr Mohammed
Gulistan Tandoori
Restaurant
Queen Street
Broughty Ferry
Dundee DD5 2HN

Agent

ARKTX Chartered Architects
187 Strathmartine Road
Dundee
DD3 8BL

Registered 29 Jan 2009

Case Officer J Young



Restaurant Extension Proposed in Queen Street

A change of use from a Snooker Club to a Restaurant is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation.

RECOMMENDATION

The application was advertised as contrary to Policy 53 of the Dundee Local Plan 2005. However it is considered that there are material considerations sufficient to justify approval of the proposal contrary to the provisions of the development plan. Accordingly the application is recommended for APPROVAL.

SUMMARY OF REPORT

- Planning permission is sought for change of use from snooker club to form an extension to an existing restaurant.
- Policies 53 and 61 of the Dundee Local Plan Review 2005 are of relevance to the determination of the application.
- The application was advertised as contrary to Policy 53 of the Dundee Local Plan Review 2005 as the distance criteria to residential properties is breached by the proposal.
- No objections were received from neighbouring residents or other bodies.
- It is considered that there are material considerations to justify approval of the application such as the established restaurant on the ground floor and licensed snooker club on the upper floor, which have both operated from this location, without any known complaints from neighbours. The proposal is in accordance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Therefore the application is recommended for APPROVAL subject to conditions.

DESCRIPTION OF PROPOSAL

Planning permission is sought for change of use from snooker club to form an upper floor extension to an existing restaurant at the Gulistan on Queen Street, Broughty Ferry. The floor area of the upper storey of the building is 274m². There are two existing toilets and a public bar at the north end of the room, which will be retained. The upper floor is accessed either by a staircase at the east end of the building or by an internal staircase to the west of the main entrance from Queen Street. There is a fire escape stair at the north end of the building. No physical changes to the building are proposed.

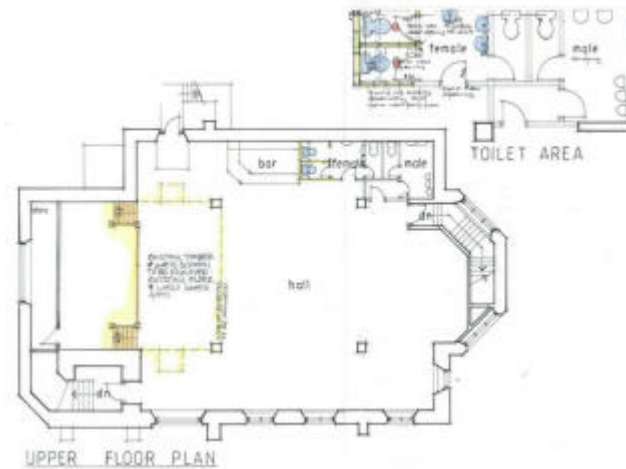
general, outwith the District Centres no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food is acceptable:

- a within 30 metres of existing and proposed housing if the outlet

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 7.00am and 7.00pm; 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.



SITE DESCRIPTION

The application site is located on the north side of Queen Street. There are residential properties to the north, west and east and Broughty Ferry Library is located further east. A public car park is located on the opposite side of Queen Street. The building is a B-listed former church building. The building is a Gothic-style church with a tower at the west end. There is an existing restaurant on the ground floor. A separate entrance to the snooker club is located at the east end of the building. The club can also be accessed by a staircase to the west of the main entrance from Queen Street. The premises have three snooker tables on the lower level and a further two within a raised platform area at the west end of the premises.

does not exceed 150m² gross floorspace (excluding cellar space) and;

Policy 61: Development in Conservation Areas - within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features and the historic pattern of streets and spaces, as identified in the Conservation Area management plans to be advanced in the near future.

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.

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 53: Licensed and Hot Food Premises outwith the City Centre - in



- b within 45 metres if the 150m² metre figure is exceeded.

In the District Centres some relaxation of the above controls on distance from residential property may be appropriate. However, proposals for hot food takeaways other than those outlined below, will not be permitted in premises directly adjoining (ie

SUSTAINABILITY ISSUES

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

SITE HISTORY

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

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and no letters of objection were received.

The application was advertised as a potential departure to Policy 53 of the Dundee Local Plan Review 2005 on 3 February 2009 and as a bad neighbour (section 34) development on 3 February 2009.

CONSULTATIONS

No comments were received from statutory 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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 advises that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

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 53 of the Dundee Local Plan Review 2005 states that no premises selling hot food are acceptable within 45m of the nearest existing or proposed housing if the premises exceed 150m². The nearest dwelling is 2m from the north boundary. There is an existing licensed restaurant on the ground floor, which has operated at this location for a substantial number of years. The Council are not aware of any complaints having been received regarding the operation of the business. The proposal is for an extension to the existing business into the upper floor above. The existing snooker club has operated as a licensed business and again the Council are not aware of

complaints being received. It is considered that the operation of the two businesses, which are licensed and sell hot food, provide material considerations for justifying the granting of permission for change of use of the upper floor to form an extension to the restaurant business at this location.

The proposal site is located within a conservation area and so Policy 61 of the Dundee Local Plan 2005 is relevant and requires all development proposals to preserve or enhance the character of the surrounding area. No external alterations are proposed and so the proposal complies with Policy 61.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.



Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

This legislation advises that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. It has been discussed previously that the proposal does not include any external alterations and so the character and appearance of the conservation area will be preserved.

Other Material Considerations

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

Current use of premises

The premises are currently used as a licensed snooker club and if this use were being applied for then Policy 53 would be relevant and does not technically support the use within close proximity to residential properties. The club has operated

without complaint for many years. The existing restaurant has operated on the ground floor, without disturbance to surrounding residents. It is considered that the proposed extension of the restaurant into the upper level will not be so intense to cause noise or smell disturbance for nearby residents. There is no parking within the site and so customers will use nearby car parks as they do at present. If Members are minded to grant approval, a condition will be attached to ensure that the extended restaurant had the same opening hours as the current restaurant business.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

The application is for change of use and there are no design implications with the proposal. Listed building permission is not required for the minor internal works proposed.

CONCLUSION

Although the application is technically contrary to Policy 53 of the Dundee Local Plan Review 2005, it is considered that there are material considerations that justify approval of the application in these circumstances.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:-

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 The opening hours of the proposed restaurant extension shall be from 11am to 11pm from Sunday to Thursday (inclusive) and from 11am to 12pm on a Friday and Saturday

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

- 2 To protect the amenity of neighbouring residents from unacceptable noise levels during unsocial hours.