

**KEY INFORMATION**

Ward Maryfield

**Proposal**

Change of Use from Temporary Dance Studio with Restrictive Hours of Operation to Dance Studio, Other Sports and a Function Room for Licensed Private Functions Until Midnight

**Address**

69 Victoria Street  
Dundee  
DD4 6EA

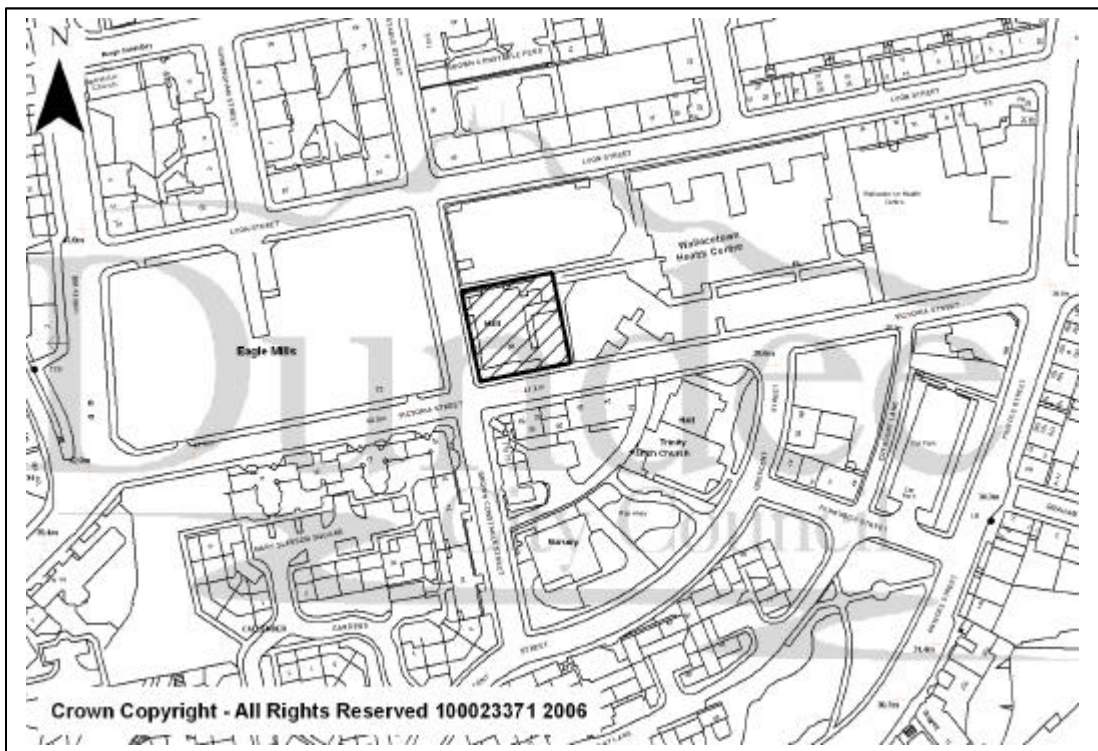
**Applicant**

Morgan Brannan  
10 Knapdale Place  
Dundee  
DD4 0SL

**Agent**

Registered 20 April 2007

Case Officer S Johnson



## Proposed Multi-sports Use in Victoria Street

Classes in cheerleading, keep fit and other sports are **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed change of use is considered to contravene Policy 53 of the Dundee Local Plan Review 2005 but it is in accordance with Policy 59 of the Dundee Local Plan Review 2005. It is considered that the material considerations provide sufficient weight to warrant approval of this application. Therefore the application is recommended for **APPROVAL** subject to conditions.

**SUMMARY OF REPORT**

- Planning permission is sought for the permanent change of use from a temporary dance studio with restrictive hours of operation to a dance studio providing classes in cheerleading, dancing, keep fit and other sports with a function room for licensed private functions until midnight at 69 Victoria Street, Dundee.
- Policies 53 and 59 of the Dundee Local Plan Review 2005 are relevant to the determination of this application as they seek to protect the residential amenity of neighbouring residents and provide suitable alternative uses for listed buildings.
- No letters of objection were received to this application.
- It is considered that the proposal does not comply with Policy 53 of the Dundee Local Plan Review 2005. However, it is considered that the proposal accords with Policy 59 and sufficient weight can be given to the material considerations to justify granting approval contrary to the provisions of the development plan.

**DESCRIPTION OF PROPOSAL**

Planning permission is sought for the permanent change of use from a temporary dance studio with restrictive hours of operation to a dance studio providing classes in cheerleading, dancing, keep fit and other sports with a function room for licensed private functions until midnight with a change in the existing opening hours at 69 Victoria Street, Dundee. Temporary planning permission was granted in April 2006 (Planning reference 06/00163/COU) for the change of use from a former Boys Brigade Club to a dance studio with other ancillary community activities.

The applicant has stated in correspondence dated 28 February 2007 that the purpose of the facility will be exactly the same as before. Previously, the applicant submitted a supporting statement for the temporary consent which clarified the types of other activities to be provided. These included the following: keep fit, gymnastics, out of school activities, jumble sales, coffee mornings and prize bingo. Also the large hall is to be hired to community groups and individuals. In this supporting statement, the applicant stated that hot food will be provided to the public. However, the applicant clarified on 4 April 2006, that the hot food will be sandwiches, filled rolls, teas and coffees only. These will only be available to participants of the various activities rather than members of the general public.

There are no details regarding any proposed alterations either internally or externally to this listed building. Consequently, Listed Building Consent is not required at this stage.

**SITE DESCRIPTION**

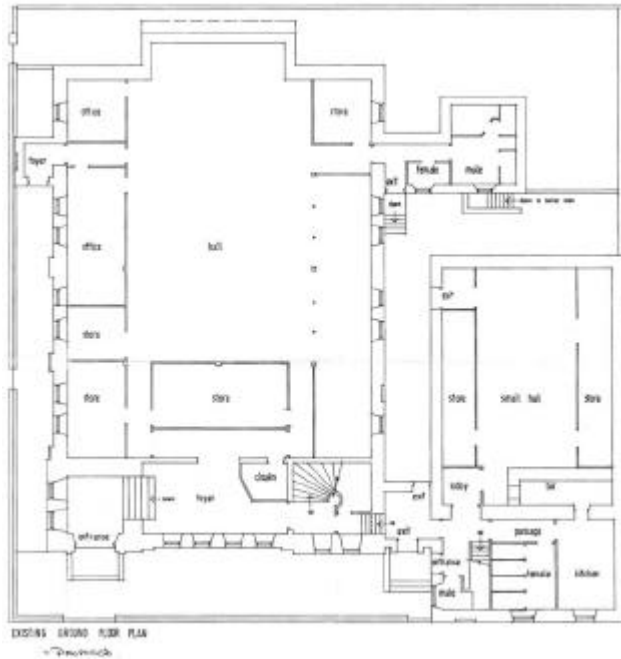
The application site is the former Victoria Street Church which is currently being used by the applicant as a temporary dance studio with restrictive hours of operation. This is a category B listed building which is rectangular in plan with a former bell tower. The interior of the building has been completely reconstructed. The Wallacetown Medical Centre is located to the north east of the site. There are residential properties to the north and south of the site. There is no dedicated

parking attached to the site. There is restricted parking around the site. The car park attached to the Wallacetown Medical Centre is for visitors to the medical centre only.

**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 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 150m<sup>2</sup> gross floorspace (excluding cellar space) and;
- b within 45 metres if the 150m<sup>2</sup> 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 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.

Policy 59: Alternative Uses For Listed Buildings - suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric must be undertaken carefully and sensitively and have minimum impact on the architectural and historic interest, character and setting of the building. Reference should be made to other policies in the Plan.

**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**

A change of use application (Application reference 00/24871/D) from halls to a licensed social club was refused in 2002. The erection of telecommunication antennae (Application reference 02/00215/LBC) with ancillary equipment was approved in 2002. Also the erection of a 0.2m

microwave dish (Application reference 02/00514/LBC) concealed behind a glass reinforced screen was approved in 2002. An enforcement notice was served in 2003 regarding painted railings (Application reference 03/00153/Listed) and in 2004 there was an enforcement case regarding the church hall being used for auctions. Temporary planning permission was granted in April 2006 for a period of one year (Application reference 06/00163/COU) for the change of use from a former Boys Brigade Club to a dance studio with other ancillary community activities. This temporary use has operated for the last year without any reported objections from surrounding neighbours. A number of restrictive conditions were attached to the temporary consent which if Members are minded to grant consent a number of these will be applied to this current application.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the application was advertised as being contrary to Policy 53 of the Dundee Local Plan Review 2005 and as a Bad Neighbour development. No letters of objection were received to this application.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards has advised that they have no objections to the proposed change of use. However, to safeguard the future amenity of adjacent householders a condition relating to noise in nearby residential properties should be applied.

## 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.

It is the intention of the applicant to use part of the building to hold licensed social functions. Consequently, Policy 53 is applicable in determining this application. The main issue for consideration is the proximity of residential properties.

Policy 53 restricts the development of licensed premises within 45metres of residential properties if the development exceeds 150m<sup>2</sup> gross floorspace. The proposed floor area for the licensed element of the development is approximately 192.9m<sup>2</sup>. This licensed area is referred to as the small hall on the application plans. Residential properties are located approximately 11metres to the south and approximately 20metres to the south west from the curtilage of the site to the curtilage of the residential properties. The residential properties both to the south and south west of the site are designed so that they are facing away from the development site with the majority of windows facing south. The residential properties are also separated from the development site by a relatively busy road, Victoria Street, which also has a bus stop to the south of the site. Consequently, it is considered that the development will have minimal noise impact on these properties.

It is considered that the application is contrary to Policy 53 due to the proximity of residential properties. However, this facility has been operating for the last year. During this time, Dundee City Council has not been made aware of any objections from the surrounding residential properties.

As stated previously this is a category 'B' listed building. The future survival of historic buildings depends on viable uses, effective maintenance and repair, and minimising the impact of adaptation and modernisation on historic fabric. Generally new uses giving rise to the least impact on the historic fabric will be encouraged. It is felt that this proposal is appropriate to secure the future of this building and to prevent it falling into a state of disrepair. There have been no other recent proposals which would be appropriate for this building. Consequently, it is felt that this application complies with Policy 59 Alternative Uses for Listed Buildings.

In addition, it is desirable to have an appropriate function to secure the

future of this category B listed building.

It is concluded from the foregoing that the proposal contravenes Policy 53 and complies with Policy 59 of the development plan.

## Other Material Considerations

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

The applicant has requested a change to the existing opening hours of the development. Currently, the opening hours are 9.00am to 10.00pm Monday to Friday and 10.00 to 3.00pm on a Sunday. The applicant has requested that the hours are changed to the following: Monday to Sunday 9.00am to midnight. This change is agreeable. However, it is considered appropriate to ensure that the development has a later start time and closes earlier on Sundays. Consequently, if Members are minded to grant consent a condition will be put in place controlling the opening hours to the following: Monday to Saturday 9.00am to midnight and Sunday 10.00am to 11.00pm.

The applicant has stated in correspondence dated 28 February 2007 that "the purpose of the facility will be exactly the same as before, there have been no problems this past year with any of the classes, regarding noise or parking".

Although the proposal has been advertised as being contrary to Policy 53 and as a Bad Neighbour development no objections have been received regarding this proposal. In addition, Dundee City Council has not been made aware of any objections to this development during the last year that the proposal has been operating.

Although the application is contrary to Policy 53 in terms of proximity to residential properties, it is considered that as the proposal has been operating for the last year without any objection from surrounding residential neighbours and due to the restrictive use of the building, on this occasion, the proposal should be approved subject to conditions.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the granting of planning permission contrary to the provisions of the development plan. It is

therefore recommended that planning permission be granted with conditions.

## Design

There are no proposals to change the external appearance or interior of this Category B listed building.

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## CONCLUSION

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As detailed above it is considered that the proposal is contrary to Policy 53 of the Dundee Local Plan Review 2005. However, it is considered that the proposal is in accordance with Policy 59 of the Dundee Local Plan Review 2005. It is also considered that sufficient weight can be given to the material considerations to justify granting planning permission contrary to the Development Plan.

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## RECOMMENDATION

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

- 1 The works must be begun not later than the expiration of 5 years beginning with the date of this consent.
- 2 No use shall be made of the premises before 9.00am or after midnight Monday to Saturday and before 10.00am and after 11.00pm on Sunday.
- 3 The hot food operations shall be confined to the preparation and sale of filled rolls and sandwiches, teas and coffees and shall not extend to any other hot food. The sale of these goods will be restricted to participants of the various activities within the premises only.
- 4 All noise from music, vocals or other source amplified or otherwise, shall be inaudible within any adjacent residential property.
- 5 The use of the premises for licensed functions shall always remain ancillary to the primary use as a cheerleading, dance, keep fit and sporting centre.
- 6 No building works or alterations shall take place to the exterior or interior of this listed building without gaining approval from the Council before any development is commenced and if approved the development shall

be carried out only in full accordance with such approved details.

## Reasons

- 1 To comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- 2 To protect the amenities of the area and to ensure that the site is not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties.
- 3 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.
- 4 The uses are closely adjoined by residential properties and the City Council considers it necessary to strictly control noise from the premises in the interests of the amenities of the area.
- 5 To protect the amenities of the area and to ensure that the site is not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties.
- 6 To ensure the historic and architectural character of the listed building is protected.