

KEY INFORMATION

Ward The Ferry

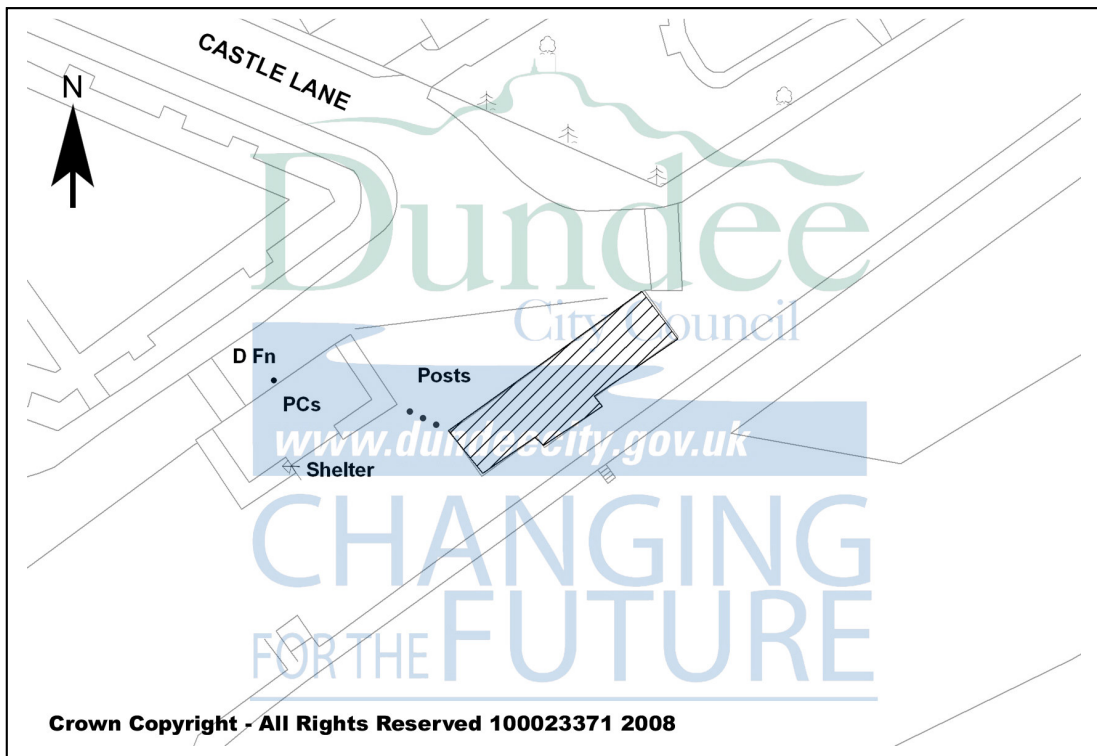
Proposal

Erection of single storey restaurant, kiosk and first aid room

AddressBathing Shelter
The Esplanade
Broughty Ferry**Applicant**N K Developments
Unit GF2D Old Mill Complex
Brown Street
Dundee DD1 5EG**Agent**Peter Inglis Architects
Unit 3
Prospect 111
Gemini Crescent
Dundee DD2 1SW

Registered 28 April 2008

Case Officer C Walker



Proposed Restaurant at Former Bathing Shelter at the Esplanade

The erection of a single storey restaurant is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

There are material considerations that justify approving the proposed development despite the fact that it contravenes Policy 53 of the adopted Local Plan. These include the fact that it is not significantly larger than the size permitted in the plan, that the principle of a restaurant has already been accepted on the site, that there will not be unacceptable detriment to local residents and that the proposal will enhance the visual amenity and tourist potential of the area. The development is recommended for **APPROVAL** subject to the Scottish Government's right to call in the application.

SUMMARY OF REPORT

- Planning permission is sought to erect a single storey restaurant building on the site replacing the existing building. The design of the building is modern with an entirely glazed southern elevation facing the river. As well as a restaurant, there is also a serving kiosk and a first aid room in the 195m² building. The proposed building is one quarter the size of the submission for a 2 storey building on this site which was recently refused by the Council.
- Policies 1, 53, 55, 61, 81 and 82 of the adopted Dundee Local Plan Review 2005 are relevant to the determination of this application.
- Objections were received in the form of 158 submissions (109 in a standard format) and a petition containing 332 signatures. The principal concerns relate to the design of the development and its impact on the conservation area, overdevelopment of the site, inadequate provision of parking, adverse impact on residential amenity, sustainability, adverse impact on beach and green Circular cycle path, loss of recycling facility and cycle parking, all in contravention of Local Plan policy.
- The proposal does not comply with Policy 53 of the Local Plan but it is considered that there are material considerations that justify approving the proposed development including the fact that it is not much larger than the size permitted in the plan, that the principle of a restaurant has already been accepted on the site, that there will not be unacceptable detriment to local residents and that the proposal will enhance the visual amenity and tourist potential of the area.

DESCRIPTION OF PROPOSAL

Planning permission is sought to erect a single storey restaurant building on the site. The proposed building has a triangular shape and a floor area of some 195m² (internal dimensions). As well as a restaurant of 75m² there is also a serving kiosk of 12m² and a first aid room associated with the beach lifeguard facility of 8m² within the proposed building. In their Design Statement the applicants suggest that the restaurant will provide 64 covers.

The proposed building sits some 4.2 metres back from the beach wall and 1.8 metres back from the pedestrian footway along the front. It is proposed to hard landscape the remainder of the application site and to relocate the cycle storage lockers to a new location on the east side of the nearby toilet building. The applicant has also subsequently clarified that as well as relocating all the existing lockers, it is proposed to provide 6 new cycle racks to supplement existing provision.

The design of the building is modern with an entirely glazed southern elevation facing the river. The glazing extends around to the 2 side elevations and these elevations then continue with walls finished in a smooth white render. The walls also contain high level windows and it is proposed to insert a ribbon of marble tiles approximately 0.6 metres above ground level and cedar louvres below eaves level. The roof is flat with a sarnafil finish and overhangs the walls of the building. It is proposed to insert plant associated with the development into the roof space.

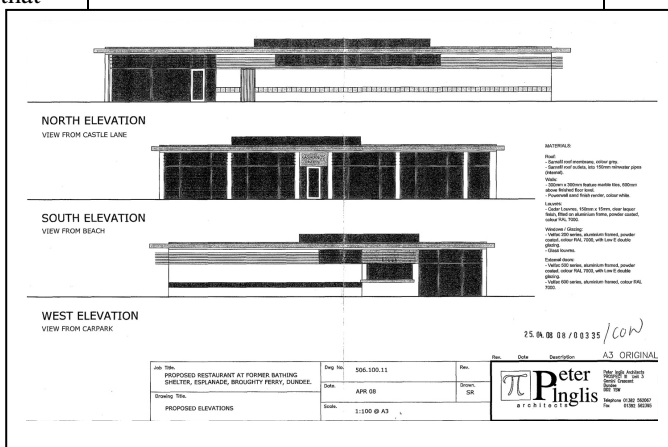
The applicants have submitted a Design Statement for the development in which they indicate that the proposal is intended to be an integral part of the tourist facilities for the Broughty Ferry beachfront, complementing the other leisure facilities at Castle Green. Proposed hours of operation are from 8am to 11pm. The statement indicates that the layout plan is designed to maximise the view over the estuary with the kiosk sitting slightly proud of the west elevation to be clearly visible from the beach and car park. It indicates that the site will be serviced

from the car park in early evenings when the car park is less busy.

Although no provision is made for car parking within the site, the applicants have referred to Council plans to close the western leg of Mill Street and the potential this has to create 10 additional parking spaces and to release land to the north of the proposed building thus improving pedestrian and cyclist circulation space.

and will not detract from Broughty Castle or the Esplanade.

Finally they suggest that the development will be sustainable, being accessible to public transport, cyclists and pedestrians, taking advantage of the southerly aspect, providing passive ventilation, insulating above the minimum standards required by legislation and incorporating water saving techniques. They state that the existing building is beyond repair.



They point out that the building occupies only 40% of the overall site, will be lower than the toilet building and is 35 metres from the nearest dwelling. They state that although Policy 53 of the Local Plan states that the maximum size of facility within this distance should be 150m², they do not significantly exceed this figure when account is taken of the proposed kiosk, first aid room and waste storage/recycling areas within the building.

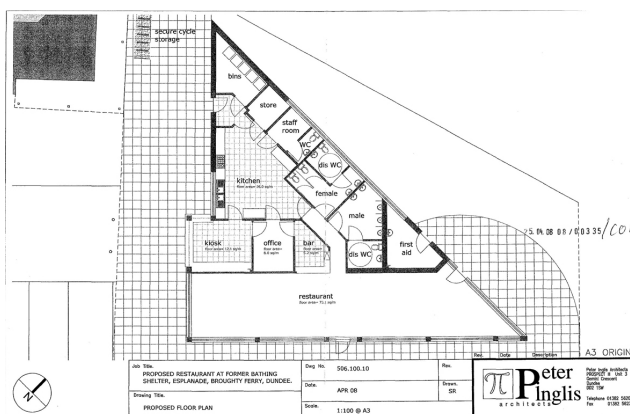
They describe the design of the

SITE DESCRIPTION

The site comprises a disused former bathing shelter, last operated as an ice cream kiosk, which sits directly on the beach front at the Esplanade. It is owned by the Council and has been vacant for some time. It has a gross internal floor area of some 150m² and a fairly functional appearance with white rendered walls and a flat roof. Apart from a glazed area at the southern beach entrance, the other windows on the building are at a high level associated with its former use as a bathing shelter. There is a higher "tower" element at its eastern end.

To the south of the building is a pedestrian walkway and steps leading down to the beach. To the north west is a Victorian style toilet block with a pitched slated roof. To the west of the building is a car park with space for approximately 36 cars. To the north and north east are houses at Castle Terrace. There is a garden area in front of these houses and the closest houses to the application site are some 35 metres distant.

The site lies within the Broughty Ferry Conservation Area and the houses at 1-13 Castle Terrace to the north are Category C listed buildings. Broughty Castle, a Scheduled Monument and Category A listed building, lies just over 200 metres to the south west of the application site.



building as modern with references to simple seaside architecture from the last century. They state that the building and hard landscaping will complement the beach front and adjacent Castle Green redevelopment

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 site is in an existing housing area and Policy 1 Vibrant and Sustainable Communities encourages the development of services and facilities within residential areas subject to amenity considerations.

Policy 53 states that in a location such as this no premises selling hot food is acceptable within 45 metres of existing housing where the floor space exceeds 150m² (as is the case with this proposal).

Policy 55 encourages good design.

The site is within the Broughty Ferry Conservation Area and Policy 61 requires all development proposals to preserve or enhance the character of the surrounding area.

Policies 81 and 82 encourage ease and safety of pedestrian access and promote the provision of both on and off road facilities for cyclists. Specific reference is made to the enhancement of the Green Circular route.

Scottish Planning Policies, Planning Advice Notes and Circulars

The Memorandum of Guidance on Listed Buildings and Conservation Areas sets out Government advice on, amongst other matters, how to assess new development in conservation areas.

SPP20 on the "Role of Architecture and Design in Scotland" promotes good design and states that this should be at the forefront of the planning and development process.

Non Statutory Statements of Council Policy

In 1999 the Council produced the Broughty Ferry Study with the aim of maximising the tourist potential of the area. On 4/12/00 the Councils Planning and Transportation Committee approved the Broughty Ferry Study which, amongst other matters, proposed the closure of the road to the south and west of the Windmill Gardens to incorporate this area into Castle Green.

More recently in consultation with the Local Community, the Council is seeking to develop a "brand" which would benefit Broughty Ferry as a

visitor, retail and tourist destination. Buildings such as that on the application site are identified as constraints which need to be tackled to benefit the tourist potential of the area.

SUSTAINABILITY ISSUES

The proposed development is in a sustainable location insofar as it is close to other beach facilities which could result in shared trips and is accessible by a variety of modes of transport.

SITE HISTORY

Planning permission was granted in April 1986 to change the use of the bathing shelter to a centre for water sports including the sale and takeaway of hot food - application D11513 refers. This consent was for a temporary period, restricted the types of hot food that could be sold and restricted the hours of operation from 8.30 am to 8.30 pm. This time limited consent was renewed indefinitely in March 1987 - application ref no D12149 refers.

In 1987 permission was granted to extend the hours of operation until 10.30 pm from April to October - application D12451 refers. This consent was for a 2 year period. A further 2 year period was granted in 1990 - application D14983 refers, and a further 3 year period was granted in 1992 - application D17117 refers.

In the premises have operated as a kiosk selling sweets and ice creams but have been disused for a number of years. In April 2005 planning permission was granted to convert the premises to a restaurant incorporating a lifeguard facility - application ref no 04/01050/COU refers. That consent was not implemented although it is still valid. It includes conditions restricting the hours of operation of the restaurant from 0900 hours to 2300 hours.

Applications for planning permission and conservation area consent by the current applicant to demolish the existing beach shelter building and erect a large 2 storey restaurant and function suite building of some 800m² were refused in January 2008 - applications 07/00972/FUL and 07/00971/CON refer. The reasons for refusal included contravention of the Local Plan policy in terms of the distance from the nearest houses and the impact on residential amenity in

terms of design, layout, parking and noise, the design of the development and the adverse impact on the Broughty Ferry Conservation Area and the adverse impact on the Green Circular cycle and pedestrian route as it passes in front of the site. The current application involves a floor area approximately one quarter of that previously proposed.

There is a separate application for Conservation Area Consent to demolish this unlisted building the report on which appears elsewhere in this Agenda - application 08/00335/CON refers.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposed development was advertised as a bad neighbour development, as contravening Policy 53 and potentially contravening Policy 61 of the adopted Local Plan and as affecting the setting of the Broughty Ferry Conservation Area.

At the expiry period for representations (2nd June), a substantial amount of objections were received in the form of 158 submissions (109 of which were in a standard format) and a petition containing 332 signatures. These are mainly from local residents but also include submissions from people living a considerable distance from the site, and there is a degree of overlap between those signing the petition and those sending in objections.

Since then and at the time of writing this Report a further 15 standard and 3 non standard letters of objection as well as 16 further petition signatories were received.

The principal concerns of objectors relate to the design and finishing materials of the development and its impact on the Broughty Ferry Conservation Area and Broughty Castle, overdevelopment of the site, inadequate provision of parking, adverse impact on residential amenity due to noise, cooking smells, late night use, litter, adverse impact on beach and green Circular cycle path including blocking of access, loss of recycling facility and cycle parking, no reference to sustainability in the construction of the building, potential flooding, odour issues with the nearby storm water storage tanks and contravention of

Policies 1, 53,55,61, 62, 64,66, 75 and 82 of the Local Plan.

Many of the objectors stated that they supported the removal of the existing building which they regarded as an eyesore, that a restaurant was not needed and that if the existing building must be replaced then it should be with a facility designed to cater for the needs of the local community (many objectors criticise the lack of public consultation by the applicant in advancing the current proposals noting that PAN81 encourages this). Some objectors are concerned about the flat roof on the building fearing a future application for an additional storey.

A submission in support of the development was received from a local resident who felt that this new proposal was a much improved plan.

Copies of all these submissions are available for inspection in the Members Lounges and the points raised are considered in the Observations Section of this Report.

CONSULTATIONS

The Head of Environmental Health and Trading Standards has stated that he does not consider that there will be a problem with cooking odours given the distance from the nearest houses but has asked that a planning condition controlling noise from plant should be imposed if planning permission is granted for the proposal.

A letter of objection was received from Broughty Ferry Community Council. The concerns of the Community Council relate to the design of the building which they consider to be mediocre and to fail to preserve or enhance the conservation area, contravention of Policy 53 of the Local Plan, loss of amenity (noise, smells, litter and increase traffic), and inadequate parking provision. They point out the need for the Council to refer the application to the Scottish Government if it is minded to approve it.

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.

Furthermore in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) Act 1997 special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Broughty Ferry Conservation Area.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

The most directly relevant policy is Policy 53 which states that in a location such as this no premises selling hot food is acceptable within 45 metres of existing housing where the gross floor space exceeds 150m². In this case the gross floor space amounts to 175m² when the kiosk and first aid room are discounted. There are 8 dwellings within 45 metres of the site, the nearest being some 35 metres distant. The proposal is therefore contrary to Policy 53.

It terms of Policy 1, it is a requirement that development should be in accordance with other policies of the Plan and should minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

The proposed development raises issues in terms of design which are also relevant in the context of Policy 55 and SPP20 which place emphasis on design quality and Policy 61 which requires all development proposals to complement and enhance the character of conservation areas.

This is a very significant seafront site in the Broughty Ferry Conservation Area. The nearby dwellings at Castle Terrace are listed buildings. The only substantial building close to the water is the scheduled monument and Category A listed Broughty Castle further to the south west.

The existing building on the site is of no visual merit and due to continued vacancy it has a run down appearance and has a negative impact on the conservation area. It is considered that its removal would enhance the appearance of the conservation area.

However it is a requirement that the replacement building is of a quality appropriate for this visually significant site and that it preserves or enhances the character or appearance of the Broughty Ferry Conservation Area.

In this case it is considered that the design of the proposed building is appropriate for this significant site. Although it will be in a very prominent and visible location, its low profile will ensure that it will not dominate its surroundings and its bulk and massing will not be substantially different from the low profile building currently on the site. The extensive glazing on the southern elevation which wraps around both side elevations and the simple white render finish on the remainder of the walls gives the building a light "seaside" image appropriate for this location. It is set a sufficient distance from the much higher toilet building (5.5 metres from the roof overhang) so as not to create an awkward relationship with it. The northern elevation, which faces towards the nearest houses, is the least interesting elevation but it is considered that the design of this elevation could be enhanced by significantly increasing the amount of glazing and a condition to this effect could be imposed should Members be minded to approve the application.

For the reasons set out above it is considered that the development is of satisfactory design and would not only preserve but would also enhance the character and appearance of the Broughty Ferry Conservation Area and therefore complies with the design section of Policy 1 as well as Policies 55 and 61 of the Plan and the good design encouraged by SPP20.

In terms of layout, parking and traffic movement issues, the proposed building occupies approximately 43% of the application site. It is not substantially larger than the existing building on the site and any issues linked to parking and traffic movement are unlikely to be substantially different from those associated with the approved restaurant facility on the site.

In terms of parking, although no additional provision is made within the application site, the applicants Design Statement refers to proposals by the Council to close the western leg of Mill Street and the potential this has to create 10 additional parking spaces.

It is likely that the most significant demand for parking for the proposed restaurant will take place in the evenings. For most of the year the 36 space car park immediately to the west of the site (and any additional spaces that can be provided there) and on street parking available on the Esplanade to the east should be more than adequate to serve the proposed development. However it has to be recognised that at certain times during the summer this parking is fully utilised and the addition of the proposed development will generate an additional level of traffic and a parking requirement. However taking into account the scale of the proposed development, the fact that a broadly similar scale of development has already been approved on the site and that the instances of parking pressure will be rare, it is considered that parking problems as a result of the proposed development would not be such as to have a detrimental impact on residential amenity in terms of Policy 1.

The applicants indicate that servicing will take place from the car park in the evenings when the car park is less busy. As is the case with car parking, at most times there will not be a problem accessing the site for servicing (even if this is not from the car park area) and on the few occasions that there will be difficulties it is considered that there will not be an unacceptable impact on the amenities of neighbours.

In terms of noise, taking into account the modest scale of the proposal, the fact that it will close at 11pm, that it is over 30 metres from the nearest houses and that should Members be minded to approve the application a restriction on night time takeaway facilities could be imposed, it is considered that noise from the premises and from patrons using the premises would not result in a level of noise disturbance that would be so detrimental to the amenities of neighbours that Policy 1 would be contravened. Finally in terms of cooking smells it is considered that this could be adequately mitigated by appropriate equipment.

It is therefore concluded that the proposed development complies with all the strands of Policy 1. Because the development conflicts with Policy 53 of the Plan, it technically also conflicts with Policy 1 in so far as that policy states that "development should be in

accordance with other policies of the Plan". However as it accords with the remainder of the policy it is considered that there is no substantive breach of Policy 1.

Policies 81 and 82 encourage ease and safety of pedestrian access and promote the provision of both on and off road facilities for cyclists. Specific reference is made to the enhancement of the Green Circular route.

The applicants Design Statement refers to proposals by the Council to close the western leg of Mill Street and the potential this has to release land to the north of the proposed building thus improving pedestrian and cyclist circulation space. The Green Circular route runs behind the existing building at this location and the changes at Mill Street will enhance access at this location.

However even without such improvements adequate space will remain for pedestrians and cyclists in front of and to the rear of the building. There is a public footpath in front of the existing building and the set back of the proposed building is some 4.2 metres back from the beach wall and 1.8 metres back from the pedestrian footway along the front. It is considered that this set back makes sufficient provision for pedestrian access. Should Members be minded to approve the application a condition could be imposed to ensure that adequate pedestrian facilities are provided to the north (rear) of the proposed building pending the implementation of the enhanced access arrangements indicated in that scheme.

The applicants propose to relocate all the existing cycle parking lockers to a position adjacent to the toilet building and to provide 6 further cycle stands.

In these circumstances adequate provision will be made for pedestrians and cyclists in accordance with Policies 81 and 82.

It is concluded from the foregoing that the proposal does not comply with Policy 53 of the adopted Local Plan.

Other Material Considerations

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

A - The Statutory Duty Set Out In Section 64 of the Planning (Listed Buildings and

Conservation Areas) (Scotland) Act 1997

This requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. As explained above in the context of the assessment of the proposal under Policies 55 and 61 of the adopted Local Plan, the proposed development would enhance the character and appearance of the Broughty Ferry Conservation Area.

B - Contravention of Policy 53 of the Local Plan

It has been pointed out that as the gross floor space of the proposed restaurant amounts to 175m² when the kiosk and first aid room are discounted and as there are 8 dwellings within 45 metres of the site, the nearest being some 35 metres distant, the proposal is contrary to Policy 53.

However it is considered that there are a number of material considerations that justify the approval of the proposed development despite the fact that it contravenes the Local Plan and these are:

- a The extent of the breach of Policy 53 is minor. Essentially the proposed facility is 25m² larger in terms of its gross floor space than that permissible under Policy 53. In theory it might be possible to further reduce the gross floor space of the building by providing, for example, external refuse storage facilities but this would be to the detriment for the amenities of nearby residents. The assessment of the proposed development against Policy 1 of the Plan has concluded that the development will not adversely impact on the amenities of neighbours.
- b The principle of a restaurant use on the site has already been established by the granting of planning permission for the existing building (application ref no 04/01050/COU refers).
- c The existing building is an eyesore and its replacement by the proposed new building will enhance the Broughty Ferry Conservation Area.

- d The preamble to Policy 53 and the text of the policy makes specific reference to problems with licensed premises and hot food takeaways (as opposed to restaurants). In this case should Members be minded to approve the application, it is proposed that a condition be attached restricting night time takeaway facilities.
- e The proposed development will enhance the tourist potential of Broughty Ferry. The Council, in consultation with the Local Community, is seeking to develop a "brand" which would benefit Broughty Ferry as a visitor, retail and tourist destination. Buildings such as that on the application site are identified as constraints which need to be tackled to benefit the tourist potential of the area. As well as the restaurant, the kiosk facility and the first aid room will enhance facilities at Broughty Ferry beach and increase its attraction as a visitor destination.

C - The Applicants Design Statement

The points raised in the applicants Design Statement have been taken into account in the assessment of the proposals against the Local Plan. In general the information provided is accepted as valid but some of the proposals, including hours of operation and the design of the building can be modified by planning condition should Members be minded to approve the application.

D - The Concerns of the Community Council and the Objectors

The concerns of the Community Council and the Objectors insofar as they relate to the design of the building and overdevelopment of the site and its impact on the Broughty Ferry Conservation Area, inadequate provision of parking, adverse impact on residential amenity due to noise and disturbance, the adverse impact on access and facilities for pedestrians and cyclists and contravention of the Local Plan have already been considered in the assessment of the proposed development against the policies of the Local Plan.

It was concluded that other than a contravention of Policy 53 (which is considered acceptable in the specific circumstances of this case), the development would not have an adverse impact on amenity, would be of satisfactory design, would enhance the character and appearance of the conservation area and would make adequate provision for vehicular, pedestrian and cycle access.

Specific concerns about the flat roof design of the building are not accepted. The provision of a pitched roof would not only increase the profile of the building on this visually sensitive site but would appear incongruous in the context of the design of the building. Some objectors have criticised the design of the north elevation of the building and in particular the high level windows and the brise soleil. This matter has been considered in the assessment of the development against Policies 1 and 55 of the Plan and it was concluded that the design of this elevation could be improved by increasing the extent of glazing and that a condition to this effect could be imposed should Members be minded to approve the application.

Concerns about litter have been raised but whilst it is accepted that any facility at this location, including the kiosk that previously operated, has the potential for an increase in littering, should Members be minded to approve the application then conditions can be imposed requiring the provision of litter bins and restricting night time takeaway which should reduce the extent of the problem. Separate legislation exists to deal with any litter problem encountered at this location.

Concerns were also raised about the impact on the setting of Broughty Castle, a scheduled ancient monument and Category A listed building, protected by statute and Policy 64 of the Local Plan. It has already been concluded that the development would enhance the character and appearance of the Broughty Ferry Conservation Area. It is not accepted that there would be an adverse impact on the setting of Broughty Castle due to the quality of design proposed, the low profile of the building, the distance involved and the presence of intervening structures and landforms.

Concerns raised about cooking smells are not considered to be justified when account is taken of the separation

distance (well in excess of 18 metres) and the availability of appropriate technology to deal with odours and this view is backed by the Head of Environmental Health and Trading Standards. A concern was also raised about the potential impact of odours from the nearby storm water storage tanks on the proposed development. However the Council is not aware of any significant level of complaint about odours from this facility despite its proximity to housing and it is considered that occasional incidences of odour from the facility would not have an adverse impact on the proposed development.

The relocation and enhancement of the cycle parking and recycling facilities is a matter that can be addressed by a planning condition should Members be minded to approve the application.

Concerns have been raised about the sustainability of the proposed building. Although this building is not of a size that SPPG6 and PAN84 suggests should achieve carbon emissions reduction, one of the objectors suggests that this should be insisted upon here since the Council owns the site. The same objector suggests that the sustainability claims of the applicant are simply "greenwash". It is considered that in the first instance the building is in a sustainable location and provision has been made for access by pedestrians and cyclists. The development takes advantage of solar gain and the applicants indicate that they will maximise the use of passive ventilation, will provide high standards of insulation and will use water saving facilities. It is considered that in these circumstances the proposed development will be sustainable.

Concerns about a lack of consultation by the applicants have been raised. PAN81 deals with community engagement and is linked to the reform of the planning system. The specific provisions in the Planning Bill relating to this matter have not yet been implemented and there is therefore no statutory requirement for public consultation at this time. However the Councils non statutory document entitled "Imagine Broughty Ferry" envisages public consultation in developing proposals for sites such as this. Whilst it is considered that it would have been advantageous to have had public consultation in advance of the submission of this planning

application, the fact that such consultation did not take place does not provide a reason for a refusal of the application.

Some objectors feel that that the proposal is for a fine dining restaurant with little benefit to the local community and that with public consultation a more community based proposal could be implemented. However the current application is very similar to previously approved proposals on the site. It incorporates a day time restaurant/cafe facility, a takeaway kiosk and a beach first aid room.

A concern about potential flooding has been raised. The site is in an area that may be subject to coastal flooding in the future but this could be overcome by a slight increase in the finished floor level of the building. The Council is currently undertaking a study of this issue and one of the possible outcomes may be coastal protection which would obviate the need for any change to the floor level of the building. This matter can be dealt with by planning condition should Members be minded to approve the application.

Concerns about future development in the form of an upper level extension cannot be taken into account in the determination of this planning application. If the current application is approved then any extension to this building will require planning permission.

The Community Council point out the need for the Council to refer the application to the Scottish Government if it is minded to approve it. This is accepted.

It is concluded from the foregoing that there are material considerations of sufficient weight to justify the proposed development despite the fact that it contravenes Policy 53 of the Local Plan. It is further concluded that insufficient weight can be attached to the views of objectors such as to justify refusing the development. It is therefore recommended that planning permission be approved with conditions.

Design

The design of the building is modern with an entirely glazed southern elevation facing the river. The glazing extends around to the 2 side elevations

and these elevations then continue with walls finished in a smooth white render. The walls also contain high level windows and it is proposed to insert a ribbon of marble tiles approximately 0.6 metres above ground level and cedar louvres below eaves level. The roof is flat with a sarnafil finish and overhangs the walls of the building. It is proposed to insert plant associated with the development into the roof space.

The existing building on the site is of no visual merit and due to continued vacancy it has a run down appearance and has a negative impact on the conservation area. It is considered that its removal would enhance the appearance of the conservation area. It is considered that the design of the proposed building is appropriate for this significant site. Although it will be in a very prominent and visible location, its low profile will ensure that it will not dominate its surroundings and its bulk and massing will not be substantially different from the low profile building currently on the site. The extensive glazing on the southern elevation which wraps around both side elevations and the simple white render finish on the remainder of the walls gives the building a light "seaside" image appropriate for this location.

The northern elevation, which faces towards the nearest houses, is the least interesting elevation but it is considered that the design of this elevation could be enhanced by significantly increasing the amount of glazing and a condition to this effect could be imposed should Members be minded to approve the application.

CONCLUSION

There are material considerations that justify approving the proposed development despite the fact that it contravenes Policy 53 of the adopted Local Plan. These include the fact that it is not much larger than the size permitted in the plan, that the principle of a restaurant has already been accepted on the site, that there will not be unacceptable detriment to local residents and that the proposal will enhance the visual amenity and tourist potential of the area

RECOMMENDATION

Recommendation 1

In terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997, if Members are minded to approve the planning application it will be necessary to refer it to the Scottish Ministers due to the development contravening Policy 53 of the adopted Local Plan (and the substantial body of objections received) and the fact that the Council has landownership interests in the site.

Recommendation 2

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 restaurant use hereby approved shall operate only between the hours of 0900 hours until 2300 hours. The restaurant premises shall not be open to the public at any other time and shall be vacated by staff and be unoccupied no later than 15 minutes after the evening closing time.
- 3 No takeaway facility shall be operated from the premises other than the operation of the ancillary kiosk facility on the west elevation of the building and this facility shall only operate between the hours of 0900 and 1900 hours.
- 4 Total noise from all electrical and mechanical plant shall not exceed NR35, as measured 1 metre from the façade of the nearest residential property.
- 5 Samples of the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples
- 6 Details of the treatment of the external areas around the building within the application site including the proposed finishing materials, the provision of seating, bollards, railings and litter and recycling bins, along

with soft landscaping shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.

- 7 Details of an enhanced design of the north elevation of the building incorporating the removal of the high level windows and brise soleil and the provision of full height glazing over the bulk of this elevation shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 8 Details of the relocation of the existing cycle lockers and waste recycling facilities and the provision of 6 additional cycle parking facilities shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 9 Details of enhanced pedestrian facilities to the north of the proposed building pending the implementation of changes to the road network at this location shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 10 Details of the proposed finished floor level of the building, which shall take account of the potential for coastal flooding at this location, shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 11 Details of the servicing of the proposed building both prior to and after the implementation of any changes to the road network at this location shall be submitted to the Council for approval 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 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To ensure that the building is not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties.
- 3 To ensure that the building is not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties.
- 4 To ensure that the building is not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties.
- 5 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 6 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 7 In order to enhance the design of the building in the interests of visual amenity.
- 8 In order to make adequate provision for cycle parking and waste recycling.
- 9 In order to provide enhanced pedestrian access to serve the proposed development.
- 10 In order to ensure that the proposed development is not susceptible to an unacceptable risk of flooding.
- 11 To ensure that servicing of the premises does not conflict with pedestrian and traffic safety and does not inconvenience parking at the public car park to the west of the site.