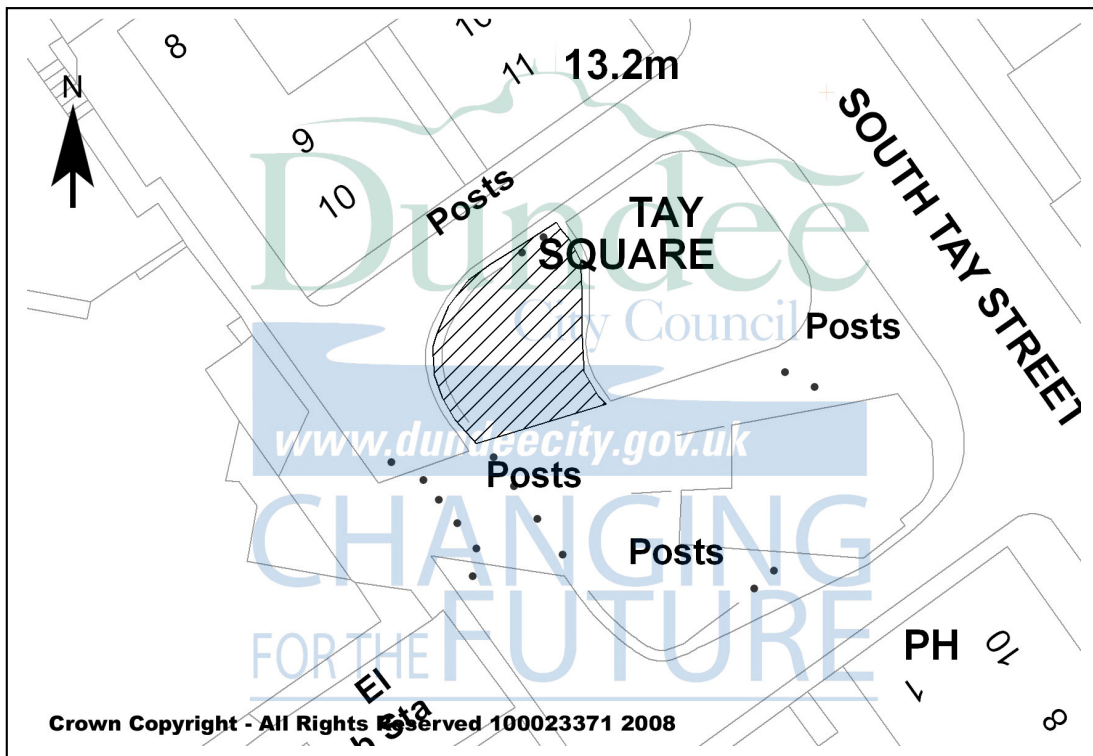


KEY INFORMATION

Ward West End

Proposal

Change of use of public space to external cafe

AddressTay Square
Dundee**Applicant**Karen Marr Properties
Belsize House
Belsize Road
Broughty Ferry
Dundee
DD5 1EL**Agent**Nicoll Russell Studios
111 King Street
Broughty Ferry
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DD5 1EL**Registered** 3 June 2008**Case Officer** B Knox

Proposal for External Cafe in Tay Square

A change of use of part of a public open space to an external cafe is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

It is considered that the proposal is in accordance with the Policies of the Dundee Local Plan Review 2005 and the views of the objectors are not supported in this instance. There are no material considerations which would justify a decision contrary to the provisions of the Development Plan. The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for an external seating area on an area of public open space in Tay Square.
- The proposal has been the subject of two objections and one letter of representation.
- The views of the objectors are not supported in this instance and the application is recommended for **APPROVAL**.

DESCRIPTION OF PROPOSAL

Planning permission is sought for an external seating area on an area of public open space in Tay Square. The proposal indicates five small sized tables, each with two seats and four larger sized tables, each with four seats. The area shown will measure approximately 100 square metres. There are no plans to alter or extend the existing building as part of these proposals.

SITE DESCRIPTION

The application site is located in the west end of the city, a short walk from the city centre. The site forms part of a larger square. The area is currently utilised as public open space. Approximately half of the square area is grassed and the remaining area is hard landscaped. The application site is hard landscaped.

The site is surrounded on three sides by a variety of properties. There are existing public houses on two sides at ground floor level, one of these is the public house to which the application relates. There is a medical centre to the west most side at ground floor level and a theatre building to the north west corner of the square. The upper levels are occupied by offices and some residential uses.

The site is located in what is defined as the Cultural Quarter in the Dundee Local Plan Review 2005 and also the University 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.



Policy 17: Cultural Quarter - within the Cultural Quarter uses and developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged. Proposals which would extend and improve the area's representation of small scale independent and speciality retailers

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

Policy

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

SUSTAINABILITY ISSUES

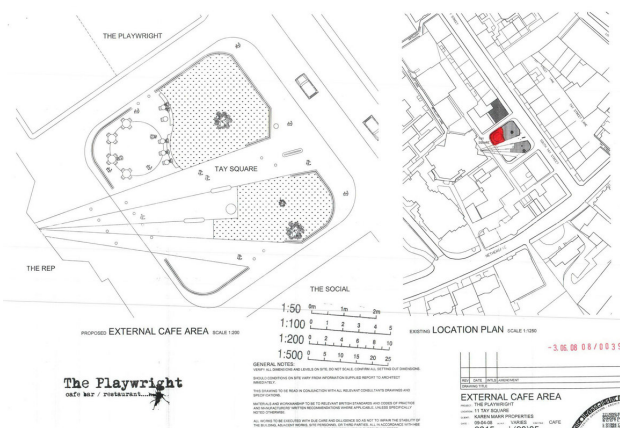
There are no specific sustainability policy implications arising from this application.

SITE HISTORY

There is no planning history for the application site itself. However, planning permission was granted 1997 for the formation of an alfresco dining area to the south east corner of the square.

PUBLIC PARTICIPATION

- The proposal has been the subject of two objections and one letter of representation. The objectors raise the following concerns:
- Potential of noise, nuisance and litter concerns for the area which would reduce the amenity value of the square.



will also be encouraged. Proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance its visitor attraction.

Where appropriate, proposals outwith the area but capable of meeting these requirements may also be supported.

- The square would not be able to be utilised by the general public.
- It would create an intimidating area for patrons to pass through the Objector's property.
- These concerns are addressed in the observations section below and have been placed in the Member's Lounge.

CONSULTATIONS

No adverse comments were received from any of the consultees.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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

The site is located in what is designated as the Cultural Quarter of the city and Policy 17 of the Dundee Local Plan Review 2005 is therefore relevant. This seeks to encourage and build on the popularity and qualities of the area which requires a clear appreciation of the mix of uses that will be needed to generate the vibrancy, interest and enjoyment vital to this concept. It is considered that the proposal, which is to form an external seating area is an acceptable use for part of the square and the area and is in keeping with the spirit of the Policy.

Policy 1 of the Dundee Local Plan Review 2005 seeks to protect the environmental quality enjoyed by local residents. As stated above, the ground floor units in the area surrounding the square are occupied by a variety of uses including public houses, a medical centre and the Repertory Theatre. Some of the upper floors are occupied by residential uses in this area but the large part of the upper floors are occupied by office uses. The square is used at present on an

informal basis as a point for meeting and to sit/congregate. It is considered that the provision of seating in this area is acceptable in terms of noise given the small number of tables proposed and the distance from residential properties.

The site is located within an existing square with informal pedestrian routes through the centre of the square. The footway part of the site is wide and the pavement cafe use will not obstruct pedestrians and in this respect it is considered to be acceptable.

The applicant has proposed that the café operate from 11.30am to 9.00pm in the evening. The hours of operation of the pavement cafe as part of the licensed premises will be controlled by the licence.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

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

Views of the objectors:

The objectors raise the following concerns:

- Potential of noise, nuisance and litter concerns for the area which would reduce the amenity value of the square.

The potential for noise and nuisance have been discussed in the Observations section above. Litter bins are provided for in the area at present and it is not considered that additional bins should be necessary.

- The square would not be able to be utilised by the general public.

The application relates to under 25% of the total area of the square and opportunities will still be available for the public to utilise the remaining areas should they not wish to utilise the area of seating sought by the current application.

- It would create an intimidating area for patrons to pass through the Objector's property.

The Objector's property, the theatre, is located in the north west corner of Tay Square. There are several routes both

through the centre of the square and around the perimeter of the square which would still be available to patrons going to the theatre. As a result of this, they will not have to pass immediately next to the proposed seating area in order to reach the intended destination if they do not wish to do so. Issues that may arise as a result of the behaviour of those utilising the proposed seating area will be controlled by the license.

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

Referral to Scottish Ministers

Although the site is in the ownership of the Council, it is considered that the application complies with the relevant Policies of the Development Plan and that there has not been a substantial body of objection to the proposal. It does not therefore require to be referred to the Scottish Government if the Committee are minded to approve the application.

Design

The proposal is considered to be acceptable in terms of appearance and will not detract from the appearance of the conservation area. Rather, the temporary nature of the proposed tables and chairs means that they will help to contribute to the vitality and interest of the area.

CONCLUSION

It is considered that the proposal is in accordance with the Policies of the Dundee Local Plan Review 2005 and the views of the objectors are not supported in this instance. There are no material considerations which would justify a decision contrary to the provisions of the Development Plan. The application is recommended for APPROVAL.

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 seating area shall be used only between the hours of 11.30 am and 9.00pm.
- 3 Prior to the commencement of the use, further details of the design and type of seating and tables to be used shall be submitted to and approved in writing by the Planning Authority. The details approved shall thereafter be utilised in accordance with the approved use.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of amenity of the area.
- 3 In order to ensure the seating and tables are suitable for the area and will not detract from the visual amenity of the area.