

KEY INFORMATION

Ward Tay Bridges

Proposal

Change of use from retail (Class 1) to public house and ancillary accommodation in basement, ground floor and first floor and residential on second floor, third floor and fourth floor.

Address

8 Nethergate
Dundee
DD1 4ET

Applicant

London And Regional
Properties
40 New Bond Street
London W1Y 9HB

Agent

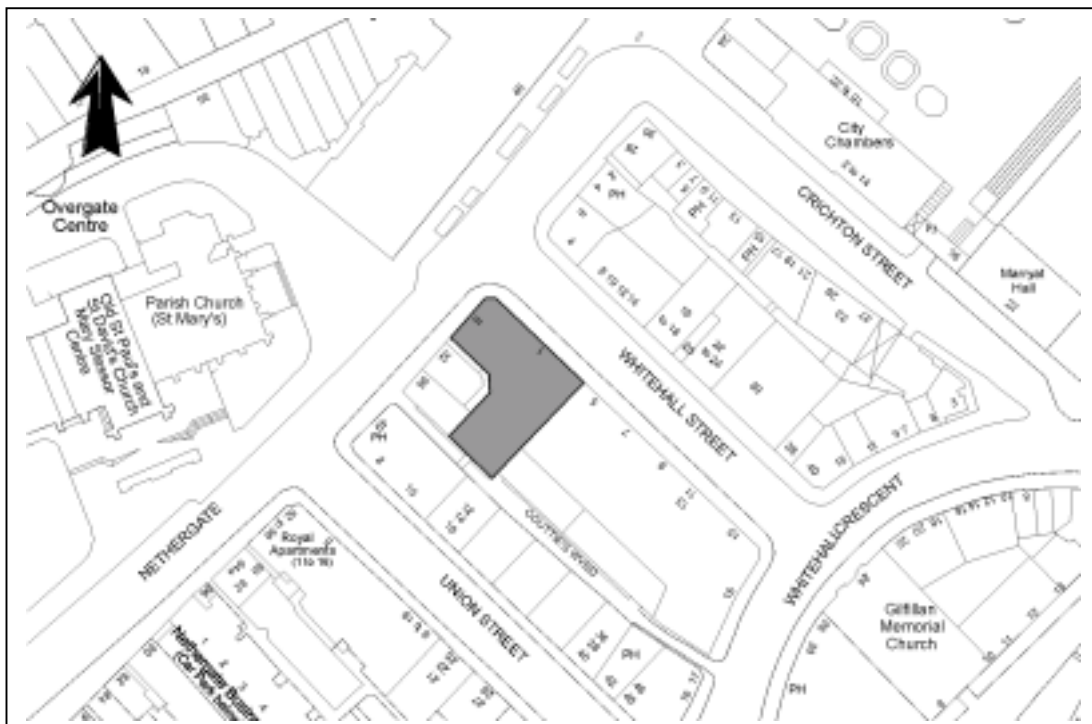
Keppie Architects
22 George Street
Perth PH1 5JR

Registered

4 March 2002

Case Officer

Dennis Gordon



Public House Proposed at the Former Debenhams' Building, Nethergate.

Change of use from retail (Class 1) to public house and ancillary accommodation in basement, ground floor and first floor and residential on second floor, third floor and fourth floor is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation.

RECOMMENDATION

The proposals are considered to be acceptable in policy terms. The development will not prejudice the vitality of the area and will add to the continuing improvement of the city centre. Accordingly, the application is recommended for **APPROVAL** subject to conditions as outlined at the end of this report..

SUMMARY OF REPORT

- Planning permission is sought to change the use of basement, ground and first floors of the northern section of the former Debenhams building to licensed premises with ancillary accommodation. The remaining floors are to be converted to flatted accommodation.
- Five letters of objection to the proposals have been received. These objections relate to the proposals being contrary to local plan policies, an increase in servicing/traffic congestion/parking problems in the city centre, an increase in associated noise nuisance and the provision of additional licensed premises in the central area.
- The proposals are considered to be in accordance with the relevant local plan policies for the city centre.
- It is considered that the proposals will contribute to the continuing improvement of the central area and will re-use a significant listed building in an important location which is currently lying vacant.

DESCRIPTION OF PROPOSAL

The proposal involves the change of use of the northern unit (Unit 6) of the former Debenhams building to licensed premises and flatted accommodation.

The basement, ground and first floors of the building will be used for public house and ancillary uses with the remaining upper floors being used for new residential flats.

The indicative plans submitted by the agents advise that a total of 18 flats are to be provided ie 9no. x 1 bedroom flats and 9no. x 2 bedroom flats. Access to the flats will be from Coutties Wynd to the west with access to the public house being from both Whitehall Street and Nethergate. The applicants have also submitted examples of the quality of internal alterations that they consider would be appropriate in this location.

The Committee are advised that a planning application to change the use of the central and southern section of the former Debenhams building from a retail store to a public house, restaurants and retail units is reported elsewhere in this agenda. The Members at the Development Quality Committee Meeting of 28 January 2002 deferred consideration of this application.

SITE DESCRIPTION

The site is located at the northern end of the former Debenhams building and is bounded by Whitehall Street to the east, Nethergate to the north and Coutties Wynd to the west. The building is a 4 storey (with attic) sandstone ashlar building with a slate mansard roof. The property accommodates shopfronts on the ground floor and is currently vacant. The building is a Category 'B' listed building and is contained within the Central Conservation Area.

The site is located within an area of mixed uses, which are diverse in character and typical of a city centre location.

POLICY BACKGROUND

National Planning Policy Guideline 8 (Revised 1998) - Town Centres and Retailing.

This NPPG sets out Government Policy for town centres and retail developments and also addresses non-retailing uses which have a role to play in contributing to the economic health and enhancement of town centres. This guideline offers advice on the sequential approach planning authorities and developers should take to selecting new sites for retail, commercial, leisure and other key town centre uses.

Tayside Structure Plan 1993



Retailing Policy 1 - This policy supports measures designed to sustain the viability of shopping centres as having a long term role in meeting the shopping needs of the community and to resist proposals which would adversely affect their viability.

Environment Policy 13 - Development affecting listed buildings and their setting or conservation areas should have full regard to the need to retain important architectural features or historical interest and, where possible, secure improvements to the built environment.

Dundee Local Plan 1998

Policy S5 - Secondary Retailing Area where non retail activities within Classes 1 (shops), 2 (offices), and 3 (food and drink) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 will generally be acceptable in ground floor shop-type premises.

Policy LT8 - (Reviewed June 1998) - No licensed premises other than off licences or possibly hotels with a restricted licence and no other premises selling hot food is acceptable within 30 metres of existing or proposed residential properties if the outlet does not exceed 150 sq.m. gross floorspace or, 45 metres if this figure is exceeded. However, within the City Centre no controls on distance from residential property will apply. In all cases, the applicants will require to demonstrate to the satisfaction of the planning authority that adequate measures have been incorporated into the proposal to avoid any nuisance the use might cause by virtue of smell, noise, litter and parking.

Policy LT10 - Parking for licensed and hot food premises will be required in accordance with the standards set by the council. In the central area, some relaxation of the standards may be appropriate.

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Policy BE15 - Suitable alternative uses will be encouraged for buildings considered to be of architectural merit or townscape value where this is necessary in order to secure the future of the building having regard to other relevant policies in the Plan.

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Policy H9 - Outwith an identified area in the city centre, there will be a presumption in favour of the refurbishment of industrial or commercial buildings for residential use provided certain criteria can be met including:-

- a the Council is satisfied that all reasonable attempts have been made to obtain suitable alternative uses for the property
- b the Council is wholly satisfied that the development will result

in a satisfactory standard of residential accommodation and amenity and;

- c the buildings concerned are of architectural or historic merit and are in danger of falling into disrepair

Policy H10 - This policy offers design guidelines for new build and conversion into residential use.

LOCAL AGENDA 21

The proposal involves the re-use of a vacant listed building which is sustainable and therefore in accordance with the Councils Local Agenda 21 policies.

SITE HISTORY

The building has been the subject of a number of planning and listed building applications. It is considered that the most relevant in recent years are:-

D22837 - Change of use of department store to form retail units on basement and ground floors and flats on the upper floors. - Approved 29/09/97.

D24361 - Elevational alterations to form 7no. retail units - Approved 21/01.00.

01/30115/COU - Change of Use from retail store (north end) to public house and hotel - Application withdrawn February 2002.

PUBLIC PARTICIPATION

The applicants carried out the relevant neighbour notification procedure. In addition to the proposal was advertised as being potentially contrary to Policy LT8 of the Dundee Local Plan (location of licensed premises). The proposal was also advertised under Section 34 of the Act (bad neighbour development). The application, to date, has attracted 5 no. objections with the relevant issues raised being: -

- 1 The proposal will result in an increase of public house facilities in the central area.
- 2 The proposal will result in an increase in traffic congestion and on street parking / servicing in Whitehall Street.
- 3 The proposals are contrary to the relevant Dundee Local Plan policies for the area.

- 4 The proposed development will have a detrimental impact on the residential amenities by virtue of an increase in noise.

Comments on the above issues can be viewed in 'Observations' below. Copies are available for inspection in the Members Lounges

CONSULTATIONS

The relevant Council Departments and outside bodies have been consulted with regard to the proposals.

The Council's Director of Environmental and Consumer Protection has advised that the applicants will require to demonstrate noise mitigation measures to be undertaken to prevent any noise nuisance to the surrounding occupiers.

OBSERVATIONS

The determining issues for the Committee in this instance are:-

Whether the proposals are in accordance with the policies and proposals of the development plan, and if not are there any material considerations that would allow the Council to set aside the policies and grant approval of the application.

The site under consideration is located within the central area of the City and forms a vacant 4 storey (with attic) sandstone building that is currently vacant. The property formerly accommodated a Debenhams store.

The applicants propose to locate a public house with ancillary accommodation at basement, ground and first floor levels. The second, third and fourth floors are to be flatted accommodation (planning permission currently exists for this use and the applicants wish to renew this permission).

With regard to the principle of the proposed uses in this location, National Planning Policy Guideline 8 (Town Centres and Retailing) advises that planning authorities and developers should adopt a sequential approach to selecting new sites for retail, commercial, leisure and other key town centre uses. The first preference should be for town centre sites where sites or buildings suitable for conversion are available. With specific advice on public houses, the

guidance suggests that it will normally be appropriate for them to be located in existing shopping or commercial areas. Such proposals should be assessed not only on their positive contribution to diversifying uses in existing centres, but also have regard to local problems which could arise from a concentration of such uses.

Tayside Structure Plan encourages the sustainable development of the tourist industry and supports proposals that offer potential for providing local employment.

With regard to The Dundee Local Plan, the site is identified as being in an area of secondary retailing where a range of uses would be considered acceptable including retail, offices and food and drink uses (Policy S5 refers). The provision of further retail uses within the building would be acceptable taking into account the former use of the building, its location on Nethergate and its close proximity to the new Overgate Centre. However, the applicants have advised that they have had considerable difficulty in attracting new retail uses to the building and consequently have sought alternative uses for the building. It is considered that the proposed use of a public house does not contravene the aspirations of Policy S5.

The use of the upper floors for flatted property has previously been granted permission by the Council. It is considered that there has been no material change in circumstances since that original grant of consent which would justify refusal of this form of residential use. This includes the current proposal to provide licensed premises on the lower floors of the building.

The environmental issues that relate to the provision of licensed premises within the city centre are covered by Policy LT8 of the Local Plan (reviewed June 1998). This requires that public houses should be located certain distances (depending on the size of the operation) from residential properties. This policy takes into account the general land use characteristics and vitality of the city centre and the review states requires that no controls on distance from residential property will apply in this area. However, it is intended to attach conditions to any permission granted which will require adequate measures

be undertaken to ensure that the amenities of surrounding occupiers are not prejudiced.

Policies BE11, BE15 and BE17 of the Plan relate to development within conservation areas and alternative uses for listed buildings. The policies encourage the alternative use of listed buildings where it is necessary to secure the future of the building. There is also a requirement to encourage developments that will complement and enhance the character of the surrounding area. It is considered that the proposed uses will not prejudice the appearance, integrity or character of the building, as there remains little of architectural quality within the property. The proposals are not considered to contravene the Built Environment policies of the Plan.

With regard to the objections submitted to the proposals, the following comments are offered: -

- 1 Provision of additional licensed premises within the city centre - It is considered that the city centre is traditionally a location for such facilities to be established. Guidance on the location of such uses suggests that city centres or shopping centres are best suited for such facilities as they can add vitality to an area.
- 2 Increase in traffic and servicing in the city centre - It is considered that the amount of additional traffic generated by the proposal will not significantly impact on the traffic circulation of the centre. With regard to the servicing of the public house, there is considered that acceptable arrangements can be made at the top end of Whitehall Street or on the Nethergate frontage. It is intended to attach a condition to any permission granted that the servicing arrangements are agreed in writing with this Council prior to the first operation of the public house premises. There is also considered to be adequate and accessible car parking and other transport facilities available in close proximity to the centre.
- 3 The proposals are contrary to the Local Plan policies for the area - This particular issue has been

fully covered and discharged above.

- 4 Impact on the residential amenities of the area - It is reasonable to accept that city centre living will be subject to more environmental disruption by virtue of noise etc. It is intended to attach a condition to any permission granted which require that certain measures are undertaken and acceptable noise levels set, prior to the commencement of any operations, to ensure that the surrounding occupiers are not unduly prejudiced by the development.

The applicant's agents have submitted a letter in support of the development proposals. A copy can be viewed in the Member Lounges. This support offers a reasoned justification for approval of the application and covers such issues as development policies and the site and its environs etc. The applicants agents have also indicated in this letter of support, and in more recent correspondence, that whilst the upper floor accommodation could be converted to a residential use, the substantial works required to provide a technically sound and marketable development would render the project financially unviable to his client. Consequently, the applicants advise that they would not be undertaking the residential conversion. As a result of this, the applicants argue that the timing of any residential conversion would be outwith their control and that any condition which requires completion prior to the use of the public house commencing would be completely unacceptable to them.

DESIGN

The proposals will not adversely impact on the external appearance of the listed building. Internally, the years of trading as a retail outlet have left little of the original features and only a few of these are worthy of retention. In general, the proposed uses will not prejudice the character of the building. However, the building under consideration is a Category 'B' listed building which plays a very important role in the townscape / streetscape of the city centre. In order to ensure that the whole building is renovated and made available for use, in the interests of the restoration of the

building, it is considered appropriate to require that a phased approach to the development be undertaken. I this respect, it is intended to attach a condition to any permission granted which requires completion of the flatted accommodation prior to the opening of the public house facility.

CONCLUSION

The provision of a public house in this city centre location is appropriate and in accordance with the local plan policies for the area. The applicants have advised that they have experienced considerable difficulties in attracting retail users to the building. The provision of such a new facility will enhance the commercial activity of the centre and will reuse an important listed building that is currently lying vacant. As regards the provision of flatted accommodation on the upper floors of the property, approval of this use has already been granted permission and it is considered that this form of use will bring vitality into the centre during evening hour.

RECOMMENDATION

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

the development hereby permitted shall be commenced within five years from the date of this permission.

All amplified music or vocals from the building shall be so controlled as to be inaudible within the nearest residential accommodation.

Before the public house use commences, the building shall be insulated, or other acceptable method, to achieve the requirements of condition 2 above in accordance with a scheme submitted to and approved by the Council and thereafter implemented accordingly.

Before use of the ventilation / extraction system or other mechanical services commences, the system and/or building shall be insulated in accordance with a scheme of attenuation submitted to and approved in writing by the Council and thereafter implemented accordingly.

That prior to the occupation of the uses hereby granted permission, secure cycle parking facilities shall be made available within the building in a

location and to a standard that is to the satisfaction of the planning authority.

Before development commences written approval from the planning authority must be obtained for the details of the servicing arrangements proposed for the new public house.

That details of the proposed flatted accommodation shall be submitted for the approval of the planning authority prior to the commencement of works on any of the uses hereby granted permission. The flatted accommodation shall be completed and made available for occupation prior to the first use of proposed public house use.

Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To ensure that the level of noise emanating from the building is reduced to levels which would not adversely affect the amenities of the occupiers of adjacent and nearby properties.
- 3 To ensure that the level of noise emanating from the building is reduced to levels which would not adversely affect the amenities of the occupiers of nearby properties.
- 4 To ensure that the level of noise emanating from the building is reduced to levels which would not adversely affect the amenities of the occupiers of nearby properties
- 5 In order to provide secure cycle parking facilities for the residents of the proposed flats.
- 6 In order to ensure the safe and efficient flow of vehicular traffic within the city centre
- 7 In order to ensure that the whole of the building is renovated and made available for use in the interests of the restoration of the listed building which forms an important corner feature of the streetscene of this part of the city centre.