

KEY INFORMATION

Ward Tay Bridges

Proposal

Change of use from vacant shop to restaurant

Address

26 Exchange Street
Dundee
DD1 3DL

Applicant

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Per Tayfield Investments Ltd
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Agent

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Registered

12 April 2002

Case Officer Julie Finlay



Proposed Restaurant in Exchange Street

Change of use from vacant shop to restaurant is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation.

RECOMMENDATION

Policy LT8 of the Local Plan was revised in June 1998 and is a material consideration. The proposed restaurant will have opening hours until 11pm and will install an odo-vent air cleaning system, which is considered acceptable in terms of noise level and the impact on adjacent flats which will be minimal. Therefore, the application is recommended for APPROVAL subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for change of use from retail units to restaurant at 26 Exchange Street with opening hours from 9am to 11pm.
- The building is B-listed, within the Central Conservation Area and allocated as a secondary retailing area.
- The application was advertised as contrary to Policy LT8 of the Dundee Local Plan 1998 as there are flats above the premises. A revision to Policy LT8 was approved by the Council in June 1998 and is a material consideration in the determination of the application.

DESCRIPTION OF PROPOSAL

Planning permission is sought for change of use from two retail units to restaurant at 26 Exchange Street. The ground floor layout includes a seating area, small bar area, kitchen, stores, toilets and the floorspace is approximately 180sq metres. No external alterations or new signage are proposed at this stage.

SITE DESCRIPTION

The application site is located on the north side of Exchange Street and the premises comprise of two ground floor retail units with three floors of flats above and dormers at attic level. There are separate entrances to each of the retail units with the entrance to the flats in the middle and a void section with stairs and a lift.

There is an existing restaurant/public house to the north with offices above. There are ground floor offices on the opposite side of Exchange Street and flats above ground floor businesses further to the south west.

POLICY BACKGROUND

Dundee Local Plan 1998

LT8: This policy states that no licensed premises are acceptable within 45 metres of existing and proposed housing. However a revision to this Policy, which is a material consideration, states that no controls on distance from residential property will apply in the City Centre. However, the applicant will be required 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.

S5: Secondary Retailing Areas - Non-retail activities within classes 1, 2 and 3 of the Use Classes Order 1989 will generally be acceptable in ground floor shop-type premises.

H7: City Centre Housing - More housing will be promoted in this area.

BE11: Within Conservation Areas all development proposals will be expected to complement and enhance the character of the surrounding area.

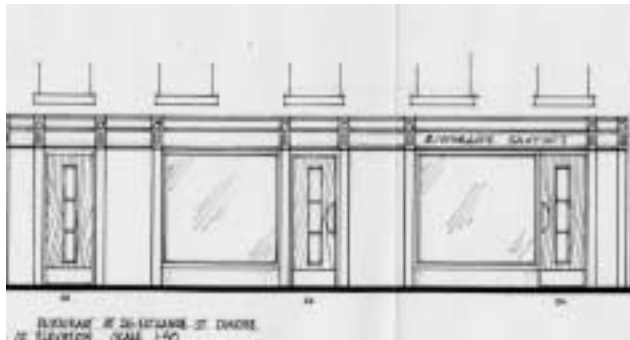
BE15: Alternative Uses for Listed Buildings: Suitable alternative uses will be encouraged for buildings considered to be of architectural merit or townscape value where this is necessary in order to secure the future of the building, having regard to other relevant policies in the Local Plan.

LOCAL AGENDA 21

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

SITE HISTORY

Planning permission was refused on 3rd December 2001 for change of use to cafe/bar on the grounds that it would be contrary to Policy LT8 of the Local Plan and potential noise disturbance. Planning permission was granted on 22nd May 2000 for conversion of upper floors to form 12 flats and



formation of 2 shop units at ground floor (ref: 00/24466/FUL). An associated listed building consent was granted on 5th September 2000 (ref: 00/01777/DLB).

There have been various conversions and improvements occurring on other buildings on Exchange Street. This includes new build flats for rent and façade enhancement of commercial properties.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and no letters of objection were received. The application was advertised as contrary to Policy LT8 as there are flats directly above and advertised as a bad neighbour development on 30th April 2002.

CONSULTATIONS

The Director of Environmental and Consumer Protection considered the application and have asked that a condition regarding the inaudibility from music within the nearest residential accommodation be attached to any consent.

OBSERVATIONS

The determining issues for the Committee in this instance are whether the proposal meets the requirements of the Local Plan policies and whether it would have an adverse impact on the residential amenity enjoyed by adjacent neighbours.

Policy LT8 is applicable in this instance but in this case, given that the premises will operate as a restaurant with an odo-vent proprietary air cleaning system, a table licence only, background music and opening hours until 11pm, it is not considered that the proposed use will have an adverse impact on the residential amenity of adjoining and neighbouring residents due to noise impact.

The area is allocated as a secondary retailing area in the Local Plan and the preamble to this policy says that non-retail uses are acceptable at these locations. The building is B-listed and Policy BE15 supports alternative uses for vacant listed buildings as it secures their future.

The Director of Environmental and Consumer Protection has provided comments regarding potential noise disturbance from the premises as there are flats directly above and consent has been granted for flats on the adjacent site to the south. The agent provided additional details, in response to these concerns, regarding the operation of the proposed restaurant. There is no intention to have music or entertainment except for low level background music. The agent has confirmed that horizontal and vertical separation of the units complies with the most up-to-date Building Standards requirements. Cooking odours will be dealt with by an odo-vent proprietary air cleaning system and the fans for this system will be contained in the basement. Cool air will be drawn in from vents on the external walls by fans within ducts and located some

distance from the outside walls. No fans or refrigeration units will be mounted on any external face of the building. This information confirms that there will be minimal noise disturbance from the proposed restaurant and subsequently will not have an adverse impact on the residential amenity enjoyed by future occupants of the flats on the upper levels or on the opposite side of Exchange Street. The applicant will be applying for a table licence for the restaurant and the premises will have opening hours until 11pm. It is considered that this will not have an adverse impact on the residential amenity of adjoining and neighbouring residents as noise levels will be minimal due to the proposed ventilation system and the enforcement of a condition to limit music and vocal noise.

DESIGN

The application is only for change of use and no details of alterations to the frontage or signage have been submitted yet. The design of the units at present are acceptable and blend in with the flats above.

CONCLUSION

Policy LT8 (as revised) places no restrictions on proximity of hot food premises to residential use within the City Centre. The applicant has demonstrated satisfactorily that noise disturbance will be minimal and a condition will ensure that there is no noise impact for residents on the upper levels. Therefore the application is recommended for APPROVAL subject to conditions.

RECOMMENDATION

It is recommended that planning permission 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 All amplified music and /or vocals shall be so controlled as to be inaudible within the nearest residential accommodation

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 nearby properties