

**KEY INFORMATION**

Ward Law

**Proposal**

Change of use from public house to licensed restaurant with take away facilities

**Address**

167 Brook Street  
Dundee  
DD1 5BJ

**Applicant**

Mr & Mrs Lau  
c/o Tang  
11 Solway Gardens  
Monifieth

**Agent**

Ritchie Dagen and Allan  
29 Hawkhill  
Dundee  
DD1 5DL

Registered 10 May 2002

Case Officer R Anderson



## Proposed Licensed Restaurant in Brook Street

A change of use from a public house to a licensed restaurant with take away facilities is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation.

**RECOMMENDATION**

Despite use proposed (restaurant) being similar in land use terms to the existing use (public house), the existence of a residential property conterminous with the application site and not in control of the applicant, breaches clear policy criteria. This breach of policy outweighs other material considerations.

Accordingly, **REFUSAL** of the application is recommended.

**SUMMARY OF REPORT**

- Planning Permission is sought for the change of use from a public house to a licensed restaurant with take away facilities.
- The application has been advertised as a bad neighbour development and as contrary to Policy LT8 of the Local Plan. No objections have been received.
- Information on the status of a neighbouring residential property has been sought from the applicants. No such information has been submitted. The proposal represents a licensed premises within 30m of a residential property, with the potential to affect amenity by virtue of noise and odours etc. It is therefore contrary to policy LT8.

## DESCRIPTION OF PROPOSAL

It is proposed that the existing Royal Oak public house at the above address change its use to a licensed restaurant with takeaway facilities. It would appear from the plans, although these are not clear, that minimal alterations are required to the interior of the building to incorporate the change. The premises operate at present as a public house selling bar food so there are already kitchens and food preparation areas. It is proposed these arrangements will continue. The layout of the floorspace will remain the same with the main seating areas to the east of the building on a split-level floor and the bar and kitchens to the west. A seating area for take away customers is located to the south of the building.

## SITE DESCRIPTION

The Royal Oak public house is located on the corner of Milne's East Wynd and Brook Street some 1km west of Dundee City Centre. It is surrounded by commercial premises on all sides both in use and vacant. The Royal Oak forms the ground floor of a two-storey sandstone and slate building with the frontage (southern elevation) painted white. Two illuminated advertising hoardings are sited on both gables (ie east and west). A residential flat is located above the pub and in the upper floor of the building. There is restricted parking on the south side of Brook street. The premises fall within the Blackness Conservation Area.

## POLICY BACKGROUND

Policy LT8 of the Dundee Local Plan indicates that, outwith the city centre, no licensed premises selling hot food, other than tea rooms, snack bars and cafes operating between 7am and 7pm and heating food by means of microwave oven or other suitable method, will be permitted within 30m of existing or proposed residential premises.

The site is zoned in the local plan as part of a wider area, which is covered by policies pertaining to the quality of the built environment. However these are not relevant as the proposed change

of use does not involve any alterations to the building.

Policy EU1 encourages the retention of industrial/commercial uses in general industrial areas. Where other uses are to be considered they should be capable of being accessed independently of the industrial area and should not depend on drawing on visiting members of the public onto industrial access roads.

## LOCAL AGENDA 21

Key theme 7 indicates that access to facilities, services, goods and people is not achieved at the expense of the environment.

## SITE HISTORY

D11491 - Partial Demolition, re-roofing and alterations - Approved April 1986.

D16417 - Extension to licensed premises - Approved September 1991.

D22012 - Roughcasting east and west elevations - Approved June 1996.



## PUBLIC PARTICIPATION

The application has been advertised under Section 34 (Bad Neighbour) and as contrary to Development Plan (Policy LT8). Statutory Neighbour notification has also been carried out. No comments have been received.

## CONSULTATIONS

The Environmental and Consumer Protection Department have raised concerns regarding the proximity of the flat at first floor level. It is not clear if this property is in the ownership of the applicant or in some

way linked to the pub below. There is potential for noise and odour pollution which could be detrimental to residential amenity.

## OBSERVATIONS

The main issues to consider in this application are whether the proposal conforms to local plan policy and if not whether there are material considerations, which outweigh policy.

With regard to policy EU1 and the potential impact the proposed change of use will have on the surrounding area, the two uses are not that much different. They both attract visiting members of the public and will involve a level of car use. The premises are located on a main public road with free parking after 6 o'clock in the evening - the time when the premises are most likely to be used. The proposal will not involve excessive car use and congestion on roads carrying a large amount of daytime industrial traffic - a criterion of the policy. It is considered that the proposed use will have a similar impact on surrounding land uses as the existing use and therefore there will be no significant change. The proposal is acceptable under policy EU1.

The property in question has operated as a public house for a number of years and has sold food for consumption both off and on the premises, ancillary to that main use. However the current application changes that emphasis and proposes that the main use of the premises be for the sale of food, requiring a separate licence. As the proposal is for licensed premises, policy LT8 (as amended) should be considered. This policy indicates that no licensed premises are acceptable within 30m of existing or proposed residential properties. In this case the building is in a predominantly industrial/commercial area and normally this would not present any policy issues. However, there is a flat located above the public house. No confirmation has been received by the applicants that they are in control of this property, despite requests being made for this information. It must therefore be assumed that there is a residential property within 30m of the proposed restaurant, outwith the

applicant's control, which would be contrary to policy LT8. There is potential to create noise, odour and other social problems, which may detrimentally affect the residential amenity of the occupants of the flat - views shared by the Environmental and Consumer Protection Department. The onus is on the applicants to provide information, timeously, which satisfies the council's policy requirements. This has not been done in this case.

There are no other material considerations, which outweigh policy considerations.

## Design

The application is merely for the change of use of the premises and therefore design is not an issue.

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## CONCLUSION

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Although the proposed use would under normal circumstances be acceptable in this location, the fact that it is conterminous with a residential premises which appears to be outwith the applicant's control, is a significant factor. The restaurant and take away do have the potential to cause noise and odours problems to the detriment of residential amenity. The applicants have not provided information which would alleviate any concerns this Council has in this situation. There are no other factors which outweigh this policy consideration, and therefore refusal of the application is recommended.

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## RECOMMENDATION

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It is recommended that planning permission be REFUSED for the following reason:

### Reason

- 1 That the applicants have not demonstrated control of the premises directly adjoining that application site and that the proposed use will not be detrimental to neighbouring residential amenity, by virtue of potential noise and odour pollution. As such the proposal is contrary to policy LT8 (as amended) of the Dundee Local Plan.