

KEY INFORMATION**Ward** Tay Bridges**Proposal**

Change of use from retail (Class 1) to Public House and Ancillary accommodation for basement, ground floor and first floor and office accommodation on second, third and fourth floors

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Registered 29 May 2002**Case Officer** D Gordon

Public House Proposed at the Former Debenhams Building, Nethergate

Change of use from retail (Class 1) to Public House and Ancillary accommodation for basement, ground floor and first floor and office accommodation on second, third and fourth floors is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposals are considered to be acceptable in land use 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** as outlined at the end of this report.

SUMMARY OF REPORT

- Planning permission is sought to change the use of the basement, ground and first floors of the northern section of the former Debenhams building to a public house with ancillary accommodation. The remaining upper floors are to be converted to office accommodation.
- Three letters of objection 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 central area, an increase in associated noise and the provision of additional licensed premises in the central area.
- The proposals are considered to be acceptable in land use terms for this city centre location. The use of the basement, ground and first floors of the building for public house purposes has previously been granted permission, on appeal, by the Scottish Executive.
- It is considered that the proposals will contribute to the continuing improvement of the central area and will reuse a significant listed building in an important location that is currently lying vacant.

DESCRIPTION OF PROPOSAL

The proposal under consideration involves the change of use of the northern unit of the former Debenhams building to licensed premises and office accommodation.

The basement, ground and the first floors will be used for public house and ancillary uses with the remaining upper floors (second, third and fourth) being used for new office accommodation. No detailed floor layouts of the proposed new uses have been submitted for consideration and no elevational alterations to the building are proposed at this time.

The Members will be aware that the use of the basement, ground and first floors of the building has been granted planning permission, on appeal, for a public house use with ancillary accommodation.

SITE DESCRIPTION

The site comprises the northern section of the former Debenhams building department store that is currently unoccupied. The premises are a 4 storey (with attic) sandstone ashlar tenemental and commercial building with shopfronts on the ground floor. The site is located on the south side of the city centre and lies in an area of mixed uses which are diverse in character and typical of a city centre location.

The site is bounded by Nethergate to the north; Whitehall Street to the east; and Coutties Wynd to the west. The building is a Category B listed building and is contained within the Central Conservation Area.

POLICY BACKGROUND

National 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 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 (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 EU24 - Outwith the Office Core Area there will be a presumption against office developments which involve the loss of residential accommodation except in buildings, predominantly in commercial use, where it can be demonstrated that the retention of residential accommodation would prevent an established commercial business from expanding in a manner consistent with other local plan policies.

Policy LT8 - 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.

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

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.

Policy LT8 (Reviewed June 1998) - This Review outlines changes to Policy LT8 and is a material consideration in the determination of planning applications for licensed premises and hot food premises. The Review advises inter alia that 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.

The Review also advises that Policy LT10 above (parking for licensed premises) should be deleted.

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 in recent years, the most relevant being:

D22837 - Change of Use of department store to form retail units on basement and ground floors and flats on the upper floors - Approved 29/09/1997.

D24361 - Elevational alterations to form 7 no. retail units - Approved 21/01/2000

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

01/30178/COU - Change of Use of part of former department store (3, 7, 9, 13 and 15 Whitehall Street) to public house, retail and restaurant units - Approved with conditions, on appeal, on 18th. September 2002.

02/00114/COU - Change of Use of the northern section of a former department store to public house and flatted accommodation - The application was approved with conditions, on appeal, on 18th. September 2002

02/00368/COU - Change of use of part of former department store (Units 3 and 4) to restaurant with elevational alterations - A report on this application can be found elsewhere in this agenda.

PUBLIC PARTICIPATION

The applicants have carried out the relevant neighbour notification procedure. In addition, the application was advertised as being potentially contrary to Policy LT8 of the Dundee Local Plan 1998 (location of licensed premises). The proposal was also advertised under Section 34 of the Act (bad neighbour development). The application has attracted 3 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 / servicing in Whitehall Street
- 3 The proposals are contrary to the relevant Dundee Local Plan policies for the area.
- 4 The proposal will have a detrimental impact on the residential amenities of the

surrounding occupiers by virtue of an increase in noise.

Comments on the above issues can be found 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 Councils Director of Environmental and Consumer Protection has offered advice on noise mitigation measures that require to be undertaken.

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 northern section of the former Debenhams store that is currently vacant. The applicants propose to provide a public house with ancillary accommodation at basement, ground and first floor levels. The remaining upper floors (second, third and fourth) are to be office accommodation.

The provision of a public house in the location proposed is considered to be acceptable in land use terms for the area. This view has been confirmed by the Scottish Executive in their approval for such a use on this site, on appeal, in September 2002. In his decision letter, the Reporter considered that the proposal to introduce a public house on the Nethergate/Whitehall Street corner would not constitute a concentration of such uses in this area to the detriment of the surrounding residential amenity. It was further considered that the public house, either alone or in association with another use in the upper floors of the building, would enhance the character of this part of the conservation area by adding to the vitality during both the daytime and evening hours and would enhance the appearance of the streetscape by the reuse of the listed building.

With regard to the use of the upper floors for new office accommodation, this proposal does not contravene the relevant office location policies of the Plan.

With regard to the phasing of the development, it is intended to attach a condition to any permission granted which would facilitate the conversion of the upper floors to office use. Commenting on this matter in the above mentioned appeal decision for this site, the Reporter considered that a condition, previously proposed by the Council for a similar application, requiring the completion of the upper floor accommodation and making it available for use prior to the first occupation of the public house, was unreasonably restrictive and not essential to the buildings ensured retention. Consequently, in the interests of consistency, it is intended to put forward all the conditions as suggested by the Reporter for this site. These conditions have been suggested in order to safeguard the amenity of nearby occupiers, to ensure the safe and efficient operation of vehicular traffic and in order to facilitate conversion of the upper floors to office use following the implementation of the public house use.

With regard to the objections submitted to the proposals, it is considered that the issues that have been raised have been discharged above.

Design

The current proposals will not adversely impact on the external appearance of the Category B 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.

CONCLUSION

The provision of a public house in the premises/location proposed is acceptable in land use terms for the area. This has been confirmed by the approval of a public house use on the basement, ground and first floors of the building by the Scottish Executive, on appeal, in September 2002. The use of the upper floors for new office accommodation is acceptable and in

accordance with the relevant land use requirements of the Local Plan.

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 The development shall not commence until the details of the servicing arrangements for the new public house hereby approved, to be located on the Nethergate / Whitehall Street frontages have been submitted to and approved in writing by the planning authority.
- 3 All amplified music or vocals from the public house shall be so controlled as to be inaudible within the nearest residential accommodation
- 4 The development shall not commence until a scheme for the insulation, or other acceptable method, for the public house (to achieve the requirements of condition 3 above) has been submitted to and approved in writing by the planning authority; all works which form part of the approved scheme shall be completed to the satisfaction of the planning authority before the use commences.
- 5 The development shall not commence until a scheme for the noise attenuation of the ventilation/extraction system or other mechanical services, to be installed in the public house has been submitted to and approved in writing by the planning authority; all works which form part of the approved scheme shall be completed to the satisfaction of the planning authority before the use commences.
- 6 The development shall not commence until details of the proposed office accommodation on the upper floors, including lift shafts, stairways, and ventilation ducts, have been submitted to and approved in writing by the planning authority; these works (lift shafts, stairways and

ventilation ducts) forming part of the approved scheme, and which are common to both the office and the public house uses, shall be completed on all the upper floors to the satisfaction of the planning authority before the public house use commences.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 In order to ensure the safe and efficient operation of vehicular traffic within the city centre
- 3 In order to safeguard the amenity of nearby residents and other occupiers
- 4 In order to safeguard the amenity of nearby residents and other occupiers
- 5 In order to safeguard the amenity of nearby residents and other occupiers
- 6 In order to facilitate the conversion of the upper floors to office accommodation following the implementation of the public house use.