

KEY INFORMATION

Ward Tay Bridges

Proposal

Conversion and extension of existing building into ground floor restaurant and 5 flats on floors 1-3

Address

32-34 Dock Street
Dundee
DD1 3DR

Applicant

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Agent

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Registered 11 Sept 2002

Case Officer C Walker



Conversion to Restaurant and Residential Units Proposed in Dock Street

The Conversion and extension of an existing building into ground floor restaurant and 5 flats is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal complies with the revised Policy LT8 approved by the Committee and the imposition of planning conditions will ensure that the restaurant will not adversely affect the amenities of neighbours. The proposed upper floor flats are also satisfactory. The design of the alterations to the listed building will serve to improve its appearance. The application is recommended for **APPROVAL** with conditions.

SUMMARY OF REPORT

- Planning permission is sought to change the use of and extend the ground floor of these premises to form a restaurant and to convert the upper floors to form 5 flats. It is also proposed to form a new shopfront and replace the windows on the building.
- The building is Category C listed and forms an important component in the imposing Dock Street frontage running from Castle Street to Commercial Street.
- Policy LT8 of the Local Plan states that no licensed premises and premises selling hot food of this size are acceptable within 45 metres of housing. However a revision to this Policy adopted by the Council in June 1998 states that no controls on distance from residential property will apply in the City Centre. Policy H7 of the Plan also allocates the site as part of the City Centre Housing Area.
- A letter of objection was received from the occupier of a flat on Exchange Street stating that the proposal contravenes the Local Plan, will create traffic, parking and access problems, will be detrimental to residential amenity by reason of noise, smell and refuse disposal and will adversely affect nature conservation because there are nesting birds at this location. The Director of Environmental and Consumer Protection suggests the imposition of conditions to ensure that noise from music and services do not exceed specified levels.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of and extend the ground floor of these premises to form a restaurant and to convert the upper floors to form 5 flats. It is also proposed to form a new shopfront and replace the windows on the building.

The restaurant occupies the ground floor of the building (other than the original stairs and a new access corridor) and provides 60 covers in an area of some 110 sq. metres. The single storey flat roofed extension to the rear is some 82 sq. metres in extent and houses the kitchen and toilet areas. It occupies most of the existing back yard area with the balance of that area (some 58 sq. metres) being used as an drying area for the flats and bin storage for the flats and the restaurant.

The roof of the extension provides a garden for the flats. This garden area is some 80 sq. metres in extent and is accessed from an external stair. Its level is below the first floor level of the flats.

The 5 flats are accessed from the existing stairwell and comprise 4 two bedroom flats at first and second floor level and a 3 bedroom flat at the top floor level. The top floor flat will have 2 small balconies cut into the roof.

The proposed new shopfront will have a reconstituted stone finish with new doors finished in carved wood. It is proposed to replace all the windows on the building in a style similar to that on the adjoining Hillcrest building to the south west.

SITE DESCRIPTION

The site comprises the former TGWU building on the north side of Dock Street. This three and a half storey building is Category C listed and was constructed in the early nineteenth century. It had been modified over time with an unsympathetic tiled shopfront and timber replacement windows but still has an attractive interior with a fine staircase. It forms an important component in the imposing Dock Street frontage running from Castle Street to Commercial Street.

The buildings immediately to the south west on Dock Street and the west on Exchange Street are 4 storey flatted blocks (with ground floor commercial uses on Exchange Street) developed by Hillcrest Housing Association. To the north east is an imposing four and a half storey listed building at the corner of Dock Street and Commercial Street. It has shop units at ground floor and flats above. To the rear of the site is the building at 29-33 Exchange Street which is in commercial use.

To the rear of the building is a yard area separated from the adjoining buildings on either side by high walls and from the building to the rear by a low fence.

POLICY BACKGROUND

In the adopted Dundee Local Plan 1998 Policy LT8 states that no licensed premises and premises selling hot food



of this size are acceptable within 45 metres of existing and proposed housing. However a revision to this Policy adopted by the Council in June 1998, which is a material consideration, states that no controls on distance from residential property will apply in the City Centre. It adds that applicants 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.

The site is allocated as falling within a Secondary Retailing Area and Policy S5 of the adopted Plan accepts non-retail activities including restaurants in ground floor shop-type premises.

Policy H7 of the Plan also allocates the site as part of the City Centre Housing

Area which promotes housing in this area. Policy H10 sets out Guidelines for new housing developments but there are no mandatory standards for open space or parking in the City Centre.

The site is within a conservation area and is also a listed building. Policy BE11 states that within Conservation Areas all development proposals will be expected to complement and enhance the character of the surrounding area. Policy BE15 promotes alternative uses for listed buildings, having regard to other relevant policies in the Local Plan. Policy BE17 requires alterations to a listed building to have regard to the restoration or enhancement of its architectural and historic character.

LOCAL AGENDA 21

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

SITE HISTORY

Until recently the building has been used as offices for the TGWU. An application was submitted in February 2002 to convert and extend the ground floor of the building to form a restaurant and convert the upper floors to 6 flats - application ref. no 02/00070/COU refers. This application was withdrawn in May 2002.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the application was advertised as being contrary to Policy LT8 of the Plan (there are flats within the 45 metre distance) and as a bad neighbour development. A letter of objection was received from the occupier of a flat on Exchange Street to the west of the site (copy available for inspection in the Members Lounges). The objector states that the proposal contravenes the Local Plan, will create traffic, parking and access problems, will be detrimental to residential amenity by reason of noise, smell and refuse disposal and will adversely affect nature conservation because there are nesting birds at this location. These concerns are addressed

in the Observations Section of this Report.

CONSULTATIONS

The Director of Environmental and Consumer Protection has considered the application. In terms of the proposed restaurant he suggests the imposition of conditions to ensure that amplified music and vocals are inaudible within the nearest residential accommodation and that noise from services and ventilation systems do not exceed specified levels. He notes that the proposed flats may suffer from excessive traffic noise from the adjoining street and states that a condition should be imposed seeking the achievement of satisfactory internal noise levels within the flats.

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, as there are flats within 45 metres of the premises. However this policy needs to be considered in the light of two factors. Firstly the preamble to the policy in the Local Plan states that in the city centre "these standards may be relaxed in recognition that the impact of proposals will be relatively less severe and also that they are important uses within these areas if they are to fulfil their function". Secondly the Committee adopted revised policies in June 1998. The new position is that within the city centre no controls on distance from residential properties will apply.

The most contentious bad neighbour uses tend to be public houses and hot food takeaways, with restaurants being less problematic. In this case any likely problems will relate to noise or smell. In terms of noise, the Director of Environmental and Consumer Protection has not opposed the development provided that appropriate conditions are imposed restricting noise from music and services and ventilation equipment. In terms of smell the applicants propose to install

an odo-vent proprietary air cleaning system.

In this case, given that the premises will operate as a restaurant with 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. Planning conditions can be imposed to ensure that the premises operate in a satisfactory manner. It is also considered that adequate provision can be made for odour control and refuse disposal and again conditions governing these matters can be imposed. There is ample public car parking adjacent to the site and litter should not be a problem as no takeaway element is proposed as part of the development.

It is considered that these factors as well as the preamble to Policy LT8 and the Committee decision in June 1998 that within the city centre no controls on distance from residential properties will apply provides a justification for approving this application contrary to the terms of policy LT8.

The objector is also concerned about traffic and parking problems. However directly opposite the site is a large public car park which tends to be less busy at night time when the proposed restaurant will be in use. Finally the objector feels that the proposed development will disturb nesting birds. At present there is almost no vegetation in the rear yard area other than some small weeds. It may be that some small birds nest in the walls of the building and pigeons within the building, but it is not considered that the renovation or reuse of city centre buildings should be opposed for this reason.

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 development of 5 flats at the upper floor levels accords with the designation of the area for housing under Policy H7 of the Plan. The flats are of a reasonable size (2 and 3 bedrooms). Although there are no mandatory standards for garden areas in the city centre, the first floor garden extends to some 80 sq. metres and in addition the top floor flat will have 2

balconies. The nature of the first floor garden was altered by the applicants following discussions in order to ensure that the privacy of adjoining occupiers was not adversely affected. In addition bin stores and drying areas are provided in the back yard area. No off street parking can be provided but this is a central site adjacent to a public car park and again Policy H10 does not seek any parking. Planning conditions restricting the nature of the proposed restaurant use and providing insulation from traffic noise will protect the amenity of the flats.

The building is C-listed and Policy BE15 supports alternative uses for vacant listed buildings as it secures their future. The alterations to the building were the subject of negotiations and the revised design will significantly improve the appearance of the building and that of the conservation area, fully complying with Policies BE11 and BE17 of the Local Plan.

Design

The design of the proposed development will enhance the character and appearance of the listed building and that of the surrounding area. The proposed new shopfront is a substantial improvement on the existing dated tiled frontage. The replacement of the existing poor quality windows will also add to the attractiveness of the building and the wider Dock Street streetscape. In addition the internal feature of interest are being retained.

CONCLUSION

The proposed development complies with the revised Policy LT8 approved by the Committee and the imposition of planning conditions will ensure that the development will not adversely affect the amenities of upper floor and adjoining occupiers. The proposed upper floor flats are also satisfactory. The design of the alterations to the listed building will serve to improve its appearance. The application is therefore 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
- 3 The restaurant shall not be open to the public before 9am and after 11pm on any day
- 4 Noise from all electrical/mechanical services which are located or terminate externally, shall not exceed NR35 as measured 1 metre external to the facade of any residential accommodation overlooking the rear courtyard.
- 5 Noise from any part of the ventilation/extraction system shall not exceed NR25 as measured within any living apartments directly abutting these premises
- 6 Internal traffic noise levels within individual living apartments shall not exceed 45dB(A) from 700 hours to 2300 hours and 35dB(A) from 2300 hours to 700 hours
- 7 samples of the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples
- 8 details of the landscaping, screening and operation of the first floor roof garden shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 9 details of all the windows (including velux windows) to be installed on the premises shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details
- 10 details of the proposed new shopfront to a scale of at least 1:50 shall be submitted to the Council for approval before any

- development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 11 That the proposed ground floor restaurant shall be used as a restaurant only as defined by Class 3 of the Town and Country Planning (Use Classes) Order 1997 and at no time shall be used as a public house.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 The proposed restaurant is closely adjoined by flats and it is considered necessary to ensure that the use is strictly controlled in the interests of residential amenity
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- 6 To provide a satisfactory standard of residential amenity for the proposed flats
- 7 in order to safeguard the appearance of the statutorily listed building and to improve its architectural appearance.
- 8 To provide an adequate outdoor garden area for the flats
- 9 in order to safeguard the appearance of the statutorily listed building and to improve its architectural appearance.
- 10 in order to safeguard the appearance of the statutorily listed building and to improve its architectural appearance.

- 11 To ensure that the proposed restaurant does not operate as a public house which would be detrimental to the amenity of neighbours.