

KEY INFORMATION

Ward Broughty Ferry

Proposal
Proposed new restaurant

Address
330 Brook Street
Broughty Ferry
Dundee DD5 2AN

Applicant
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Registered 26 August
2002

Case Officer G Reid



Proposed New Restaurant in Brook Street

A Proposed New restaurant is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

It is considered that the proposed restaurant, subject to conditions, is in accordance with policies of the development plan.

The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a new restaurant at land adjacent to J&G Chalks, 330 Brook Street, Broughty Ferry, Dundee.
- The proposed restaurant raises issues for consideration in terms of the Employment Uses and Leisure and Tourism Policies of the Dundee Local Plan 1998. In addition, the proposals raise issues for consideration in terms of Report 440/1998: The Review of Local Plan Policies on Licensed Premises and the Sale of Hot Food.
- Three letters and a petition with 30 signatures were received raising objections to the proposed development. The main grounds of objection related to problems of traffic congestion, parking and access, disturbance due to noise and anti-social behaviour, and the overshadowing of an adjacent property.
- It is considered that the proposed development, subject to conditions, would be in accordance with the Employment Uses and Leisure and Tourism Policies of the Dundee Local Plan 1998 and Report 440/1998: The Review of Local Plan Policies on Licensed Premises and the Sale of Hot Food. In addition, it is considered that the concerns raised by objectors are not sufficient to warrant refusal of the application in this instance.

DESCRIPTION OF PROPOSAL

Planning permission is sought for a new restaurant on land adjacent to J & G Chalk Public House, 330 Brook Street, Broughty Ferry, Dundee.

The proposal involves the erection of a two-storey building, which is to be attached to J & G Chalk Public House. The restaurant is to occupy both the ground floor and the upper floor. There is to be a bar, servery and cellar/store on the ground floor with the kitchen, toilets and staff room on the upper floor. The two floors are to be connected by a spiral staircase. The restaurant would have the capacity to seat approximately 113 customers.

Customer access to the restaurant is to be taken from an entrance on Brook Street at the west most part of the building. Service access is to be taken from Brook Street at the east most part of the building.

A garden area/service yard is to be formed to the rear (south) of the building. The fire exits for both the ground and first floor areas are to access into this area. The bin store is also to be located in the rear area and is to be in the south western part on the boundary with the house to the south. No off-street car parking is to be provided as part of the development.

The design and finishing materials of the proposed extension are to complement those of the existing public house to the west.

SITE DESCRIPTION

The application site is located on the south side of Brook Street and is to the west of the junction with St Vincent Street. The site extends to approximately 0.0375 hectares and is flat in nature. The site is vacant and has been cleared of all buildings.

The site is bounded to the west by J & G Chalk Public House, to the south by commercial properties and a house, to the east by a garage and to the north by residential properties, and various retail, commercial and social uses.

POLICY BACKGROUND

There are no National or Structure Plan policies of relevance to the consideration of this application.

Dundee Local Plan 1998:

- 1 The application site is located within an area covered by Employment Uses Policy EU27. This policy sets out a presumption in favour of retaining non-residential uses, which do not constitute a detriment to residential amenity.
- 2 Leisure and Tourism Policy LT8 applies to the proposed development. This policy seeks to resist licensed premises of the size proposed within 45 metres of housing

Report 440/1998: The Review of Local Plan Policies on Licensed Premises and Sale of Hot Food is relevant to the



consideration of this application. This provides for relaxations to the controls on distance from residential properties within district centres.

Report 3/2000: Broughty Ferry Study. The application site lies within an area identified in the Study Report as a site for the relocation of the Council's existing car park at Brook Street/Gray Street (South)

LOCAL AGENDA 21

Key Theme 7 is relevant to the consideration of the application and seeks to ensure that access to facilities, services goods and people is not achieved at the expense of the environment and are accessible to all. The proposed development would provide a well-designed building on an unsightly gap site. The restaurant would complement the existing

facilities of the district centre and is considered to adhere to Key Theme 7.

SITE HISTORY

Planning Application 98/23690/D: Change of use from restaurant and flat and an extension to form a public house at 326 Brook Street, Broughty Ferry, Dundee. Approved with conditions on 24 February 1999.

Planning Application 01/30508/FUL: Extension to existing public house to form restaurant and function room at 326 Brook Street, Broughty Ferry, Dundee. This application was withdrawn on the 13 March 2002.

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours. In addition, the application was advertised in the "Dundee Courier and Advertiser" as a bad neighbour development on the 3 September 2002 and as potential departure to the development plan on the 9 September 2002.

Three letters of objection were received to the proposed development. A petition with 30 signatures raising objections to the proposed development was also received.

The main grounds of objection to the proposed development were that:

- 1 it would exacerbate existing problems of traffic congestion and parking in Brook Street.
- 2 it would create access problems for the properties to the rear of the site.
- 3 it would exacerbate existing problems due to disturbance from noise and anti-social behaviour and would detrimentally affect the amenity of residents.
- 4 it is of too a large scale for the location proposed and would detrimentally affect the amenity of the property to the south of the site.

Copies of the letters and petition of objection are available for inspection in the Members' Lounges. The issues raised will be addressed in the "Observations" section of the report.

CONSULTATIONS

The Director of Environmental and Consumer Protection advised that he had concerns with regard to the potential of disturbance from noise given the nature and scale of the proposed development in such close proximity to housing. His main concerns were that:

- 1 Details would be required of the location, and acoustic performance of all mechanical and electrical plant.
- 2 The fire door which opens onto the "service yard" should be so designed that its occasional use to improve ventilation into the restaurant would be prohibited.
- 3 With the location of the bin store at the rear of the site closest to the nearest housing, a condition, which prohibits the use of, said store after 2200hours would be required.
- 4 A condition should be applied which specifically excludes the use of the garden area/service yard for any other use than that of a service yard.

No adverse comments were received from any of the other statutory consultees.

OBSERVATIONS

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

- 1 The proposed development is in accordance with the Employment Uses and Leisure and Tourism Policies of the Dundee Local Plan 1998.
- 2 The proposed development would exacerbate existing concerns regarding traffic congestion, parking and access in Brook Street.
- 3 The proposed development would have a detrimental impact on the amenity of residents by virtue of noise, anti-social behaviour and overshadowing.

The previous application for this site was for an extension to the public house to include a function suite and a restaurant. Given the concerns raised with regard to the potential impact that

an extended public house might have on the amenity of residents the applicants withdrew the application. The current application is for a stand-alone restaurant separate from the public house.

The proposed development is located within an area where Employment Policy EU27 applies. This policy sets out a presumption in favour of retaining non-residential uses, which do not cause a detriment to residential amenity. The Policy advises that new non-residential uses will be acceptable provided that:

- a they are appropriate in scale and appearance to the character of the surrounding area.
- b they do not adversely affect existing residential amenity, and;
- c car parking is provided in accordance with the Council's Roads Standards.

It is considered that the scale and appearance of the proposed extension is appropriate for the location proposed in terms of the streetscape. The two-storey building is of a good quality design will complement the property immediately to the west. The proposal would therefore replace an unsightly gap site with a well-designed building.

The proposed development is for a licensed restaurant and there are residential properties in close proximity. There is therefore the potential for an adverse affect on the amenity of nearby residents to occur. This issue is dealt with in the consideration of the application in terms of Leisure and Tourism Policy LT8 of the Local Plan 1998.

Given that the restaurant is partly within the district centre it is not considered necessary for the applicant to provide additional off-street car parking to serve the development.

The proposed development is for a licensed restaurant and as such Leisure and Tourism Policy LT8 is relevant, as there are residential properties within 45 metres of the proposal. Policy LT8 seeks to resist licensed premises within 45 metres of residential properties. The policy does acknowledge that within District Centres these controls may be relaxed. Report 440/1998 reviewed the Local Plan policies relating to licensed premises and

sought to relax the controls on distance from residential properties within District Centres.

The application site is located at the eastern end of the Broughty Ferry District Centre. The site straddles the District Centre boundary with half of the site in the District Centre and the other half outside. Given that half of the site is within the district centre it is considered appropriate to assess it as being a district centre site. The proposals would not directly adjoin any residential property. The nearest residential property is to the rear of the application site.

There are already two public houses immediately to the west of the application site. The proposed restaurant will introduce another licensed premises to this part of Brook Street. The restaurant will draw more people into the area particularly in the evening. The restaurant is however likely to have less of an impact than a public house. Restaurants by their nature are not associated with generating the same levels of disturbance from noise or anti-social behaviour as public houses. This is mainly due to them closing earlier in the evening and generating lower levels of noise from music. As there are already two public houses in the area the amenity of residents is already affected. It is considered that the introduction of a restaurant would not adversely affect the amenity of surrounding residents.

The proposed restaurant does not include the provision for the operation of take-away hot food. Clearly a hot food take-away could have the potential of operating much later in the evening and result in disturbance from noise and anti-social behaviour. In order to safeguard against the introduction of a hot food take-away operating from the restaurant a condition should be imposed if Members are minded to approve the application to prohibit the operation of a hot food take-away service from the restaurant. In addition, the hours of operation of the restaurant should be restricted to ensure that any potential disturbance from customers in the evening is limited.

On this basis it is considered that the proposed restaurant is acceptable in terms of Leisure and Tourism Policy

LT8 and the Review of Licensed Premises (Report 440/1998 refers)

The site is located within an area identified in the Broughty Ferry Study as having potential for replacing the existing car park to the east of Gray Street. It is considered that, given the area of land taken up by the site, the proposal would not prejudice the future development of a car park in this location. The proposal is considered not to undermine the aims of the Broughty Ferry Study.

Three letters of objection and a petition were received to the proposed development. The following addresses the main grounds of concern raised:

- 1 it would exacerbate existing problems of traffic congestion and parking in Brook Street. As the proposal is for a licensed restaurant in a district centre no additional parking would normally be sought. Clearly the proposed development could lead to an increase of traffic at this location with people using the premises and place additional demands on the available on street parking. However, it is considered that the likely traffic generated by the proposed development would not lead to such difficulties that would warrant refusal of the application.
- 2 it would create access problems for the properties to the rear of the site. There is currently no access taken from the site into the area to the rear. There is an existing access to the east, which would not be affected by the proposed development. It is considered that the proposal would not result in access problems for properties to the rear of the site.
- 3 it would have a detrimental impact on the amenity of residents due to disturbance from noise. It is considered that on the basis of the conditions with regard to hours of operation and prohibiting a hot food take-away service then there should be no detrimental affect on the amenity of neighbours. The Director of Environmental and Consumer Protection has advised of concerns with regard to the potential of disturbance from noise to the property to the rear.

However, subject to conditions covering the areas highlighted in the "Consultations" section of the report he has no objection to the proposed development.

- 4 it would result in the overshadowing of adjoining residential properties. The nearest residential property is located to the rear of the application site. The only property that would be affected by overshadowing is the property directly to the south. At its closest point the extension would be 5 metres from the house. Most of the house would be at least 10 metres from the extension. While some overshadowing would occur it is considered that this would not be so significant as to warrant refusal of the application.

Design

The design of the proposed extension is to match that of the existing public house in terms of style and finishing materials. The design is therefore considered to be acceptable. The proposal would also contribute to the streetscape through providing a good quality design for this frontage site.

CONCLUSION

It is considered that the proposed development subject to the imposition of conditions is in accordance with Employment Uses Policy EU27 and Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998. It is considered that the concerns raised by objectors are not of sufficient weight to warrant refusal of the application.

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 That no hot food take-away service shall be permitted to operate from the premises.
- 3 The restaurant hereby permitted shall not be open for business between hours of 23:00 hours and

09:00 hours on any day of the week.

- 4 Details of the location and acoustic performance of all mechanical and electrical plant shall be submitted to the Council for approval prior to the commencement of development and if approved the proposed development shall carried out only in full accordance with such approved details.
- 5 Details of the method to be used to ensure that the fire doors are not used to provide access to the service yard area or ventilation into the restaurant shall be submitted to the Council for approval prior to the commencement of development and if approved the development shall be carried out only in full accordance with such approved details.
- 6 The location of the bin-stores is not permitted by this permission and details of an alternative location shall be submitted to the Council for approval prior to the commencement of development and if approved the development shall be carried out only in full accordance with the approved details.
- 7 That the area to the rear of the building referred to as a service yard shall at no time be used for any other use than to service the building and in particular shall not be used for the serving of customers
- 8 That no internal link for customers shall be formed between the restaurant and the existing public house to the west.
- 9 That the proposed development 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 to ensure that the proposed development does not have an

- adverse affect on the amenity of residents from noise.
- 3 to ensure that the restaurant does not have a detrimental affect on the amenity of surrounding residents due noise or anti-social behaviour.
 - 4 to ensure that the location and acoustic performance of all mechanical and electrical plant does not have a detrimental affect on the amenity of surrounding residents due to disturbance from noise.
 - 5 To ensure that there is no disturbance to neighbours from noise emanating from the fire door.
 - 6 To ensure that the use of the bin stores does not have a detrimental affect on the amenity of neighbours due to noise.
 - 7 To ensure that the amenity of residents is not adversely affected due to disturbance from noise.
 - 8 To ensure that the restaurant is not used as part of the public house.
 - 9 To ensure that the proposed restaurant does not operate as a public house which would be detrimental to the amenity of neighbours.