

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

Change of use of existing warehouse/office at ground and basement levels to form extension to nightclub

Address

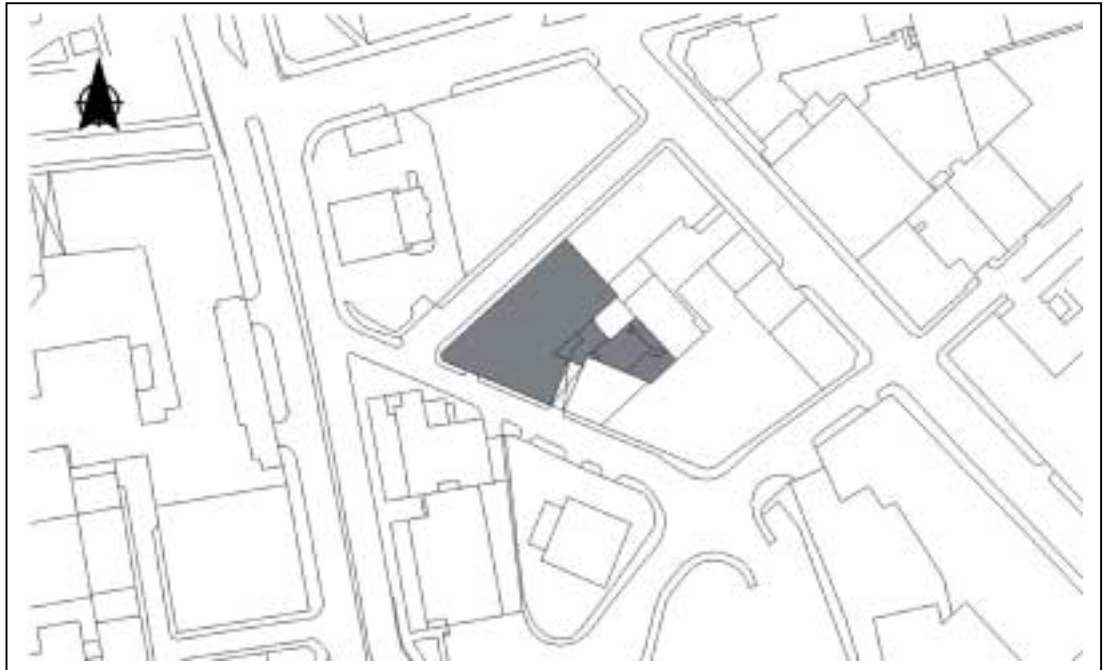
Fat Sams Nightclub
31 South Ward Road
Dundee
DD1 1PU

Applicant

Pigalle Entertainment's Ltd
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Glasgow
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Agent

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Registered 18 Mar 2003**Case Officer** Eve Jones

Proposed Extension to Fat Sam's Nightclub

The change of use of existing warehouse/office form extension to a nightclub is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal is contrary to the relevant policy in the Dundee Local Plan 1998 but in accordance with the policies in the emerging Finalised Local Plan Review. There are sufficiently strong material consideration to support an **APPROVAL** with conditions.

SUMMARY OF REPORT

- Planning permission is sought for the extension of an existing nightclub in the City Centre. The club currently operates on the first floor of the stone built former mill building on the south side of Johnston Street. The proposal is for use of the ground floor with storage and toilets in the basement. A Noise Impact Assessment has been submitted.
- The eastern half of this building has a public house on the ground floor with flats above, the surrounding uses are mixed commercial offices, public house and nightclub, 24 hour petrol station and car park. The nearby West Marketgait carries heavy traffic around the Inner Ring Road.
- The proposal is contrary to the Policy LT8 in the Dundee Local Plan 1998 due to the proximity of residential properties but is in accordance with the relevant policies in the emerging Local Plan Review. Until recently, Policy LT8 was the subject of a revision which excluded sites within the City Centre. The site lies within the Cultural Quarter where leisure and cultural uses are supported.
- Three letters of objection have been submitted on the basis of increased noise and loss of residential amenity. The objections are not supported in view of the City Centre and Cultural Quarter location. It is considered that the proposed extension will not significantly increase the impact of the existing public houses and nightclubs in the area.

DESCRIPTION OF PROPOSAL

The application is for planning permission for the change of use of the ground and basement floors from warehouse and office use to form an extension to the nightclub which occupies the first floor of this building with a small ground floor foyer and entrance. The proposal involves limited external alterations mainly relating to the internal blocking of windows and the installation of ventilation grilles.

The development proposes an additional 1,099 square metres of floorspace. The existing nightclub occupies 927 square metres.

SITE DESCRIPTION

The site is the western part of a stone built former mill building which lies on the south side of Johnston Street between South Ward Road and North Lindsay Street. The building is three storey with an attic and basement.

The eastern half of the building has a public house on the ground floor with flats above. To the south lies a small public house with a large nightclub complex beyond. An office building lies to the west, a petrol filling station and a car park lies to the north.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan 1998

The following policies are of relevance:

Policy LT8 - Licensed and Hot Food Premises.

The policy states that no licensed premises other than off licenses or possibly hotels with a restricted licence are acceptable within 45 metres of existing housing if the unit is larger than 150 square metres. There are flats in the building immediately to the east of this building.

Policy BE15 - Alternative Uses for Listed Buildings. The policy supports alternative uses for buildings of architectural or townscape value where

this is necessary to secure the future of the building, provided the proposal is in accordance with other relevant policies in the Local Plan.

Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application.

Finalised Dundee Local Plan Review

The following policies are of relevance:

Policy 17 - Cultural Quarter. The policy states that within the Cultural Quarter, uses and developments which will assist in the further development of its role as a focus for cultural and related leisure and business activities will be encouraged.

Policy 52 which seeks to restrict the size and concentration of public houses and nightclubs within the City Centre does not apply to premises within the Cultural Quarter.



Policy 59 replicates the existing Dundee Local Plan Policy BE15 with regard to alternative uses for listed buildings.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

NPPG 8 - Town Centres and Retailing. This statement of national planning policy guidance recognises the importance of town centres and identifies that new retail and commercial leisure developments should be easily accessible and that town centres should be the preferred location for such uses in the first instance. The expansion of existing

developments should accord with the development plan.

PAN 56 - Planning and Noise. The PAN advises that consideration of certain planning applications will be greatly assisted by submission of a noise impact assessment to assess and predict noise levels and outline measures for any mitigation measures which may be required.

Non Statutory Statements of Council Policy.

There are no non statutory Council policies relevant to the determination of this application.

LOCAL AGENDA 21

The proposal complies with Key Theme 12 which seeks to ensure that "Opportunities for culture, leisure and recreation are readily available to all" as the site lies within the City Centre.

SITE HISTORY

There are no previous applications of direct relevance to this application. There is a current Listed Building application (03/00211/LBC) in respect of the change of use of the building and the elevational alterations which are proposed. This will be determined if the principle of the change of use is approved. As part of the Listed Building application an innovative design solution will be sought for the windows which have to be blocked internally to satisfy the requirements of the noise attenuation works.

There is a current planning application (ref. 03/00/FUL) for the development of 31 student flats providing 122 bedspaces on the site on the north side of Johnston Street which is currently in use as a car park. This application has yet to be determined. This site has been identified in principle as a site for Student Housing in the Finalised Draft Local Plan Review.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised in the local press as a bad neighbour development and as a development contrary to the development plan. Three valid objections were received, two from neighbouring residents, one of which

had a petition with 6 signatures and one from the housing association which owns the adjoining flats. The objections were on the grounds of loss of residential amenity due to noise particularly late at night. One late objection was received on behalf of a commercial company on the grounds of intensity of this type of activity, impact on amenity of town centre and potential adverse impact on the Listed Building. The objections will be considered in the Observations below.

CONSULTATIONS

The Director of Environmental and Consumer Protection advises that the submitted Noise Impact Assessment is acceptable and the proposed noise mitigation measures are appropriate for the site. These can be the subject of specific planning conditions.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

Policy LT8 - Licensed and Hot Food Premises states that, inter alia, no licensed premises larger than 150 square is permitted within 45 metres of existing housing. There are flats in the building immediately to the east of this building. The proposed development does not comply with this policy.

Policy BE15 supports alternative uses for buildings of architectural or townscape value where this is necessary to secure the future of the building, provided the proposal is in accordance with other relevant policies in the Local Plan. The proposed development is for an extension of an existing use into other parts of the building which are currently vacant. However the proposal does not comply with other policies in the Plan and

therefore does not comply fully with this policy.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Other Material Considerations

The other material considerations to be taken into account are as follows:

Finalised Dundee Local Plan Review

Policy 17 - Cultural Quarter. The policy opens with a statement outlining the background to the identification of the Cultural Quarter. The mix of uses including licensed premises and the proximity of the Universities have combined to create an increasingly popular and lively environment close to the City Centre. On this basis, the policy supports uses and developments which will assist the further development of the area. This development which is for the expansion of an existing and well established nightclub is in accordance with this policy.

Policy 52 which seeks to restrict the size and concentration of public houses and nightclubs within the City Centre is designed to protect the existing retail functions and it specifically does not apply to premises within the Cultural Quarter.

Policy 59 replicates the existing Dundee Local Plan Policy BE15 with regard to alternative uses for listed buildings. As the use is in accordance with Policy 17 and also provides beneficial use for parts of a Listed Building which are currently vacant, the proposal also complies with this policy.

Supporting Justification. The applicant has submitted supporting information outlining the history of this well established nightclub since its opening in 1983. The expansion of the club will provide a wider range of music and facilities for live bands. It is argued that the proposed expansion and upgrading of the venue will add to the facilities of the Cultural Quarter.

Objections

Three valid objections were received, two from neighbouring residents, one of which had a petition with 6 signatures and one from the housing

association which owns the adjoining flats. The objections were on the grounds of loss of residential amenity due to noise particularly late at night. The site lies within the City Centre surrounded by mixed uses including a large public house on the ground floor of the adjoining building above which the objectors live or own property. Public houses and nightclubs are a very significant feature of this part of the City Centre which have predated the conversion of some upper floors to residential accommodation. Whilst reasonable noise mitigation measures can be taken to reduce noise transference within buildings, this is not an area where quiet streets can reasonably be expected especially in the evening. Given the existing concentration of public houses and nightclubs in the area, this expansion of an existing and well established club is considered that the objections are not considered to be sufficiently strong to justify the refusal of planning permission.

Dundee Local Plan 1998

Policy LT8. Members may recall that in June 1998, subsequent to the adoption of the Local Plan, this policy was the subject of a review which stated that the distance restrictions did not apply in the City Centre. The revised policy has been applied to all relevant applications in the intervening years. However, following the publication of the Finalised Local Plan Review, all such non-statutory revisions have been deleted and superseded by the Review. Thus the original wording of the 1998 policy still applies and the application is contrary to that original wording. The emerging Local Plan is however the current indication of the Council's intentions with regard to licensed premises in the Cultural Quarter and is a strong material consideration in support of the application.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

The proposals involve limited alterations to the external appearance

of the building. However the proposed noise mitigation measures involve blocking off of windows and full details of these proposals will be required to ensure that the appearance of this Listed Building is not adversely affected. It has been suggested to the applicant that this is an opportunity for an innovative design solution to enhance the character of the site.

CONCLUSION

This is a long established nightclub within the City Centre, close to other popular nightclubs and public houses. These are the type of facilities which are expected to be located within any city. In addition, the site lies within the Cultural Quarter and could contribute to the enhancement of the area as a visitor and tourist attraction in addition to the improvements to the local economy. Whilst the proposal is contrary to the terms of the original policy in the development plan, that policy has been the subject of an amendment since 1998 which has relaxed its provisions in the City Centre. In addition, the proposal is in accordance with the relevant policies in the emerging Local Plan. It is considered that the objections cannot be supported as the site is within the City Centre and in the centre of the established nightclub area. It is considered that the proposed extension will not significantly increase the existing noise and activity experienced by residents and specific conditions will require the implementation of the proposed noise mitigation measures within the building.

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 Full details of the proposed treatment of the windows incorporating the sound attenuation measures as detailed in the submitted Noise Impact Assessment shall be submitted to the Council for approval prior to the commencement of any works on site and if approved, the works shall be carried out only in

accordance with such approved details.

- 3 Any amplified music or vocals shall be so controlled as to be inaudible within the nearest noise sensitive residential accommodation.
- 4 Noise from mechanical and electrical services on the premises shall not exceed Noise Rating NR35 as measured 1 metre from the façade of the nearest residential accommodation.
- 5 Before the use commences, the building shall be insulated to achieve sound attenuation in accordance with a scheme approved by the District Council and thereafter implemented.

Reason

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 in order to ensure that the character and appearance of the building as a building of architectural and/or historic interest is retained
- 3 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.
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