

KEY INFORMATION

Ward Tay Bridges

Proposal

Change of use from retail premises and offices to restaurant and offices

Address

187 Perth Road
Dundee
DD2 1AS

Applicant

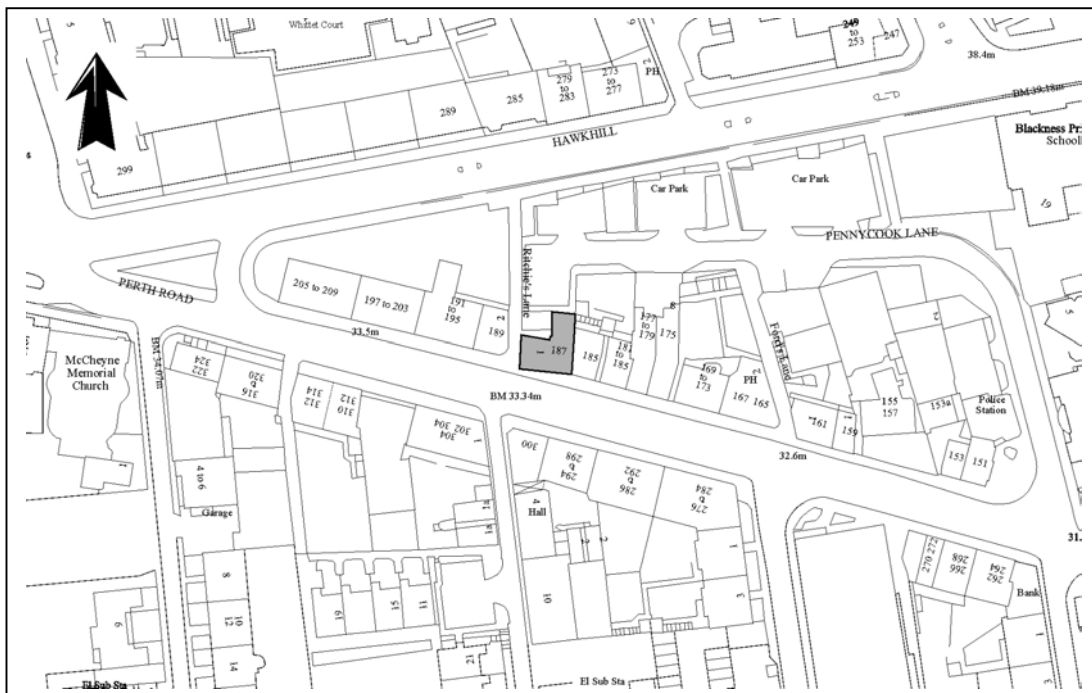
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Registered 26 Mar 2003

Case Officer Eve Jones



A change of use from retail premises and offices to restaurant and offices is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal is contrary to one policy in the Dundee Local Plan but is in accordance with all relevant policies in the Finalised Local Plan Review 2003. The material considerations are of sufficient strength to support the development.

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

SUMMARY OF REPORT

- The application is for the change of use of a traditional stone building to form a restaurant on the ground floor and offices on the upper two floors. There are no details of any alterations to the exterior of the building. The application was originally for a restaurant and fast food but this has been amended to a restaurant only.
- The site lies on the north side of Perth Road within the busy District Centre. Surrounding buildings have shops on the ground floor with flats above. There are a number of restaurants and public houses. There is on street parking and a small public car park to the rear.
- The proposal is contrary to one policy in the Dundee Local Plan 1998 due to its proximity to residential property but is in accordance with the relevant policies in the Finalised Local Plan Review 2003.
- One objection has been received from the West End Community Council as the development is contrary to the policy in the Local Plan as it relates to hot food sales. Having been advised of the change of the proposal to restaurant only, they declined to withdraw the objection but consider use as a restaurant should lessen public concerns. The objection cannot be supported.
- The proposed uses are complementary as offices and restaurant are likely to be used at different times of the day. The proposed restaurant is small, less than 70 square metres. Full details of all external alterations, ventilation ducts etc will require to be submitted for approval. As the proposal represents the beneficial use of a traditional building in the Conservation Area it is considered to be acceptable subject to conditions.

DESCRIPTION OF PROPOSAL

The application is for the change of use of the existing building to form a restaurant on the ground floor and offices on the upper two floors. There are no details of any elevational alterations or signage which would have to be the subject of further applications. The application originally referred to a restaurant and fast food outlet but this has been amended. The primary use is restaurant which would permit limited ancillary take away.

SITE DESCRIPTION

A two storey with attic, traditional stone building with slate roof situated on the north side of Perth Road close to the Sinderins junction. The building is currently a single planning unit with a shop at ground floor and offices above. The surrounding properties to the west, south and east are all taller tenemental buildings with shops on the ground floor and flats above. The lane to the immediate west of the building leads northwards to the Hawkhill and gives access to the small public car park which lies to the rear of the site. There is on street parking in front of this building. Perth Road at this point is a busy commercial location which is also a main bus route. The District Centre contains a number of restaurants, public houses and takeaways in addition to a wide range of shops.

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 S17 - Retail Core Areas. The policy supports use of existing retail premises within the retail core for restaurant use at ground level.

Policy EU13 - District and Local Centres. The policy generally supports offices provided they comply with other policies. Where they are to be located on upper floors, offices will not be permitted where the majority of

the building is still in residential use. There is no residential use in this building.

Policy LT8 - Licensed and Hot Food Premises. The policy states that licensed premises are not acceptable within 30 metres of existing housing.

Policy BE 11 - Development in Conservation Areas. All developments should complement and enhance the character of the area. The proposed change of use is within the existing building and no elevational alterations are proposed. This policy is not considered to be directly relevant in this case.

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 38 - District Centres. The policy supports retail and other shopping developments which would contribute to the vitality of the centre.

Policy 39 - District Centre Core Areas. The policy defines restaurant use at ground floor level as an important use within the retail core. The Plan also indicates that District Centres should offer a wide range of shopping and related services. The provision of upper floor offices will provide accommodation for small scale office uses in a sustainable location.

Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The

policy states that within District Centres, the relaxation of the 30 metre rule for proximity to residential property may be appropriate. The policy states however that proposals for hot food take aways will not be permitted in premises directly adjoining residential properties other than in specific very restricted circumstances. The proposal is for a restaurant use.

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application

Non Statutory Statements of Council Policy

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

LOCAL AGENDA 21

The ground floor restaurant complies with Key Themes 7 and 11 as it provides a service accessible to all but maintains the environmental quality of the building. The upper floor offices comply with Key Theme 15 as the diversity and local distinctiveness of the site is protected.

SITE HISTORY

The conversion of the upper floor accommodation from residential to office and storage was approved in 1985.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a Bad Neighbour development and a development contrary to the development plan. One letter of objection was received from the West End Community Council on the grounds that the application is contrary to Policy LT8 and the plans give no details of the type of restaurant or fast food outlet which is proposed. The Community Council was advised that the application had been amended to delete reference to a separate take away. They declined to withdraw the objection but assume that the primary

use as a restaurant will lessen the concerns of the public. This objection will be dealt with in the "Observations" below.

CONSULTATIONS

The Director of Environmental and Consumer Protection advises that the limited information which has been submitted with regard to the proposed mechanical and electrical services is sufficient to enable appropriate conditions to be added to any planning permission. These would require full submission and approval of the details prior to operation of the uses.

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

The site lies within the Perth Road District Centre where restaurants at ground floor level and offices on upper floors are acceptable uses which accord with Policies S17 and EU13. With regard to Policy LT8, the proposal has been confirmed as a restaurant and no separate take away use is proposed. However, it is assumed that the restaurant will be licensed. It is within 30 metres of flats on upper floors of the building immediately adjoining to the east and across the lane to the west. The restaurant part of the proposal does not therefore comply with Policy LT8 of the development plan. It does however comply with Policy EU13 with regard to the office use.

Other Material Considerations

The Finalised Dundee Local Plan Review is a material consideration in the determination of this application.

The proposal complies with Policy 38 - District Centres and Policy 39 - District Centre Core Areas.

Policy 53 - Licensed and Hot Food Premises outwith the City Centre. The policy states that within District Centres, the relaxation of the 30 metre rule for proximity to residential property may be appropriate in recognition that the impact of such uses may be reduced and that they are important functions which are expected to be located in such areas. The proposal is for a restaurant use on the ground floor only and the premises are relatively small with a public area of less than 70 square metres. The nearest residential property to the east is in a separate building which is at a higher level and therefore the first floor flat is not directly connected to the ground floor of the application site. Similarly, the housing to the west is separated from the site by the lane. In these circumstances, it is considered that the potential loss of residential amenity from the proposed restaurant is very limited.

It is therefore considered that the proposed restaurant and office uses are in accordance with the policies of the Finalised Dundee Local Plan Review.

Objection

The West End Community Council has objected on the grounds that the proposal is contrary to Policy LT8 and that there are no details of the type of restaurant or food outlet which is proposed. Following the amendment to a restaurant only use, they declined to withdraw the objection but assume that this will lessen the concerns of the public. As detailed above, whilst the application is contrary to Policy LT8 in the Dundee Local Plan it is considered to be in accordance with the Finalised Local Plan Review policies. The type of restaurant is not a planning issue. A restaurant can provide very limited, ancillary take away facility as is common in many of the other restaurants in Perth Road.

It is not considered that the objection can be supported.

The premises have been for sale for some time and a number of informal enquiries have been received in respect of use of the site for a take away. No planning applications were submitted. The current application seeks to confirm that the site can be used for

restaurant and office uses, although no specific end user for the restaurant has been identified. Both the restaurant and the offices are uses which are expected to be located in a District Centre. The building is relatively small with limited floorspace. There is on street parking and a public car park to the rear. The two uses are complementary, as they are likely to be used at different times of the day. Whilst there are no specific details of the proposed mechanical and electrical services, this can be the subject of specific conditions. Elevational alterations to the building and signage are likely to require further permissions.

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 and with an advisory note regarding the restriction to restaurant use on the ground floor.

Design

There are no design issues at this stage. This traditional building within the Conservation Area is proposed to be retained and maintained in acceptable alternative uses.

CONCLUSION

The restaurant use is contrary to one policy in the Development Plan. The whole development is in accordance with the policies in the Finalised Local Plan Review. The objection cannot be supported in this instance. It is considered that in view of the relatively small scale of the proposals, the beneficial use of a traditional building within the Conservation Area and the location of the site within the District Centre, the proposal is acceptable subject to appropriate planning conditions.

Advisory Note: For the avoidance of doubt, the use hereby approved is for a restaurant in accordance with Class 3 of the Town and Country Planning (Use Classes)(Scotland) Order 1997 as amended.

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 Total noise from all mechanical/electrical services shall not exceed NR35 as measured 1 metre external to the facade of the nearest residential accommodation.
- 3 Prior to the commencement of the uses hereby approved, full details of the proposed ventilation/extract system shall be submitted to the City Council for approval and if approved the works shall be carried out only in accordance with such approved details.
- 4 The ventilation/extract system shall be installed, maintained and operated in accordance with the manufacturer's recommendations.
- 5 Prior to the commencement of the uses hereby approved, the building and ventilation/extract system shall be insulated to achieve sound insulation in accordance with a scheme which has been submitted to and approved by the City Council and if approved, the works shall be carried out only in accordance with such approval.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality
- 3 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality
- 4 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality
- 5 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality