

KEY INFORMATION

Ward Hilltown

Proposal

Change of use from residential home (Class 8) to HMO

Address

2-4 Ellen Street
Dundee
DD1 2QH

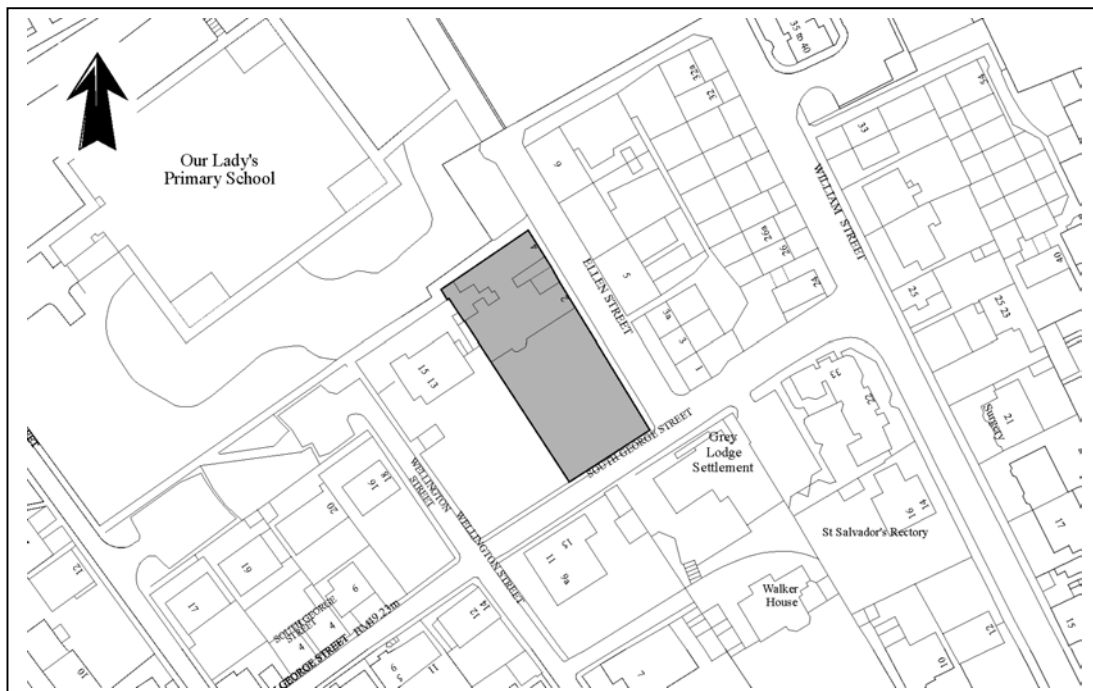
Applicant

Inverellen Ltd
2-4 Ellen Street
Dundee
DD1 2QH

Agent

Registered 25 May 2003

Case Officer C Walker



The Change of use from residential home (Class 8) to HMO is **RECOMMENDED FOR REFUSAL**.
Report by Director of Planning and Transportation

RECOMMENDATION

The use of the premises as an HMO contravenes Policy H14 of the adopted Local plan and gives rise to problems of noise and disturbance which adversely affect the amenity of local residents. It is considered that there are no material considerations that would justify the approval of this application contrary to the terms of the Plan. The proposal is therefore recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought to change the use of the premises from a residential home to a house in multiple occupancy for 20 residents. The use as a HMO was introduced in February of this year and was brought to the attention of this Department following complaints from members of the public.
- The site is in a residential area with the only non residential uses being a primary school to the north and the Grey Lodge Settlement to the south.
- Planning records show that the premises were used in the 1960's, 1970's and early 1980's as a Church of Scotland hostel. In 1988 it was converted to a residential home for the elderly and this use continued until recently.
- At the time of writing this report 6 individual letters from local residents, as well as letters from the Grey Lodge Settlement and Our Lady's School Board were received objecting to the development. In addition a petition of objection containing 178 names was received. The objectors are concerned about noise, vandalism and anti social behaviour from occupants of the premises, problems with traffic and parking, and the concentration of HMO's in the area.
- The proposal does not comply with the provisions of Policy H14 of the adopted Local Plan which relates to HMO's.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of the premises from a residential home to a house in multiple occupancy. No new building works are proposed as part of this application. The use as a HMO was introduced in February of this year and was brought to the attention of this Department following complaints from members of the public.

The plans submitted indicate that the former nursing home provided 11 bedrooms in the main 2 storey building with the single storey annex to the rear being used for storage and plant. The proposed plans indicate similar arrangements but following a site visit it is clear that the annex building to the rear has been converted into a 4 bedroom self contained unit. The applicants state that this unit, which does not have planning permission, is occupied by them as a dwelling house.

There are currently 17 residents in the premises but a licence for up to 20 residents has been sought by the applicants.

SITE DESCRIPTION

The site comprises a large 2 storey stone and slate building, an annex building to the rear and an extensive garden area to the south. The stone building has a mansard style roof. The annex building is of brick construction and has a lean to slate roof. The site is enclosed to the north, south and east by high stone walls. To the west, the boundary to the subdivided villa at 13/15 Wellington Street, is formed by a lower wall and landscaping.

The extensive garden to the south of the stone building is attractively landscaped and has a pleasant sunny aspect. There is a small covered area to the east of the buildings which provides a parking space with access from Ellen Street. There are 2 pedestrian access points to the site, both from Ellen Street to the east of the buildings. To the north west of the site is a small courtyard area which provides drying facilities and there is a fire escape door from this area onto a laneway to the rear.

To the east of the site, on the opposite side of Ellen Street, are dwellings in

the form of 3 townhouses and 3 four storey tenement blocks, each containing 8 flats. To the south of the site, on the opposite side of South George Street, are the Grey Lodge Settlement and a subdivided villa at 9a/11 Wellington Street. To the west of the site is a subdivided villa at 13/15 Wellington Street. To the north of the site is a pedestrian laneway and immediately beyond that Our Lady's Primary School and grounds.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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



Dundee Local Plan 1998

Policy H14 of the adopted Local Plan relates to houses in multiple occupancy. The relevant sections of that policy state that planning permission for a house in multiple occupancy will only be acceptable where additional parking can be satisfactorily provided, there is direct access to refuse collection and drying areas to the rear of the property and where the proposal is more than 250 metres from an existing H.M.O. In addition planning permission will not be granted for more than 12 unrelated people occupying a house.

The preamble to the policy states that a HMO is very contentious in terms of residential amenity and that multiply occupancy intensifies pressure on amenity, particularly mutual areas and parking and can increase the prospect of disturbance and nuisance. It adds that concentrations of such uses will only make matters worse.

Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application

Finalised Dundee Local Plan Review

Policy 11 deals specifically with houses in multiple occupation and is broadly similar to Policy H14 of the adopted Local Plan. The sections of that policy of relevance are that the proposals will only be supported where they will not be detrimental to traffic or pedestrian safety on account of increased parking pressures; will not have a detrimental impact on residential amenity by virtue of increased pressure on parking, or due to noise and disturbance; and will not result in an excessive concentration of such uses to the detriment of the character of the local area.

The preamble to the policy states that multiple occupancy intensifies pressure on amenity, particularly mutual areas and parking, and can increase the prospect of disturbance and nuisance. It also states that the restriction on granting permission

for HMO's within a specific distance of existing HMO's in the adopted Plan was no longer being considered to be appropriate.

Scottish Planning Policies, Planning Advice Notes and Circulars

SPP1 "The Planning System" provides an overview of the land use planning system in Scotland. It states that material planning considerations should relate to the development and use of land.

Non Statutory Statements of Council Policy

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

LOCAL AGENDA 21

The Councils Local Agenda 21 Policies seek to provide access to

shelter and to provide safe and pleasant environments.

SITE HISTORY

Planning records show that the premises were used in the 1960's, 1970's and early 1980's as a Church of Scotland hostel. In 1988 it was converted to a residential home for the elderly and this use continued until recently.

Following complaints from members of the public about multiple occupancy at 2/4 Ellen Street, the matter was investigated and it was established that a breach of planning control had occurred. The applicants were contacted about this and in response they submitted the current application to retain multiple occupancy at this address.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the development was advertised as contravening Policy H14 of the Local Plan. At the time of writing this report 6 individual letters from local residents, as well as letters from the Grey Lodge Settlement and Our Lady's School Board were received objecting to the development. In addition a petition of objection containing 178 names was received. Copies of these letters and the petition are available for inspection in the Members Lounges.

The grounds of objection are:

- a The use is causing serious problems in the neighbourhood due to noise, vandalism and anti social behaviour from occupants of the premises. Local residents allege that there is little supervision on the premises and that the police have frequently visited the site as a result of these problems. These concerns are heightened due to the presence of a school immediately to the north of the site.
- b There are problems with traffic and parking, including noise from vehicles as a result of the development.
- c (c) The premises are close to other HMO's at Nelson Street and Ann Street/Cotton Road.

These matters are fully considered in the Observations Section of this Report.

CONSULTATIONS

The Director of Education has written to draw attention to the concerns of Our Lady's School Board about the attitude and behaviour of residents of the application premises and to suggest that the close proximity of the premises to the primary school would not appear to be desirable.

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

Policy H14 of the adopted Local Plan is directly relevant to the determination of this application. The proposed development clearly contravenes 3 requirements of that policy. Firstly there are no proposals for additional parking as required by the policy. Secondly the proposal should not be within 250 metres of an existing HMO, whereas here there are 6 HMO's for which a licence has been applied within this area. Finally it contravenes the requirement that there should not be more than 12 unrelated people occupying a house (20 residents are proposed here). 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:

- a The Finalised Dundee Local Plan Review

Policy 11 of the Finalised Plan is broadly similar to Policy 14 of the adopted plan. However it does not contain a specific requirement for the provision of parking but rather requires that it does not detrimentally impact on residential amenity due to

increased pressure on parking. There is no specific 250 metre exclusion zone but there is a presumption against an excessive concentration of HMO's to the detriment of the character of the local area. Finally there is no restriction on the total number of occupants in a HMO.

- b The planning history of the premises.

The premises have been in a form of institutional residential use (a Church of Scotland hostel and then a nursing home) for many years. It will therefore have associated with it a level of activity beyond that of a dwelling house.

- c The location of the site and the layout of the premises.

The site is surrounded by fairly robust boundaries in the form of high stone walls, with the residents only able to gain access from Ellen Street to the east. These high boundaries provide a strong level of containment for the use of the premises as a HMO.

- d Letters of Objection.

There has been a significant degree of objection from the surrounding community who have experienced the operation of this HMO over a number of months. SPP1 states that material planning considerations should relate to the development and use of land. Objections based on the particular nature and characteristics of the occupants of the premises (as opposed to the nature and characteristics of the use) cannot be taken into account in the determination of this planning application. However objections based on the nature of the use and the intensification of activity as a result of this use can be taken into account.

The views expressed by some of the objectors and referred to by the Director of Education relating to the type of people occupying the premises and particular incidents of anti social behaviour cannot be taken into account in the determination of this application.

The objectors concerns about noise and disturbance from the premises, traffic and parking difficulties and the concentration of HMO's in the area are material considerations and can be taken into account.

Taking all these material considerations together and weighing them against the provisions of Policy H14 of the adopted Local Plan the following can be concluded:

- 1 There are no grounds for refusing this application on traffic and parking grounds alone. Although Policy H14 seeks additional parking there is no specific requirement in the draft Plan. More significantly the former use of the premises as a residential home appeared to operate successfully without off street parking. Although parking and traffic matters have been raised by objectors, problems were not observed at the time of the site visit. This is most likely a result of the fact that levels of car ownership amongst the residents are likely to be minimal. It is accepted that a change in the nature of the occupants could result in parking problems but there is also adequate space within the garden area to form a parking area if this was required.
- 2 There is an issue relating to the intensification of activity at the premises. Policy H14 of the adopted Local Plan contains a presumption against HMO's with over 12 residents. The preamble to the policy explains that multiply occupancy intensifies pressure on amenity, particularly mutual areas and parking and can increase the prospect of disturbance and nuisance. Although the Finalised Plan does not restrict numbers to 12, Policy 11 seeks to ensure that a HMO does not have a detrimental impact on residential amenity due to noise and disturbance. The former use of the premises as a nursing home was not one associated with noise and disturbance. The use of the premises as a hostel was over 15 years ago and operated on an entirely different basis to the current use. Although the site is fairly well screened by walls, the access to the premises is directly opposite the entrance to dwellings on the east side of Ellen Street. Ellen Street itself is a narrow cul de sac road where noise levels from traffic or commercial activities is minimal. The level of

objection received suggests that the increase in noise and disturbance from the premises is such as to be detrimental to residential amenity. In these circumstances it is considered that there is no justification for departing from the restriction in Policy H14 that not more than 12 people should occupy the premises.

- 3 Finally there is an issue relating to the concentration of HMO's in this area. Policy H14 contains a 250 metres restriction distance and there are some 6 HMO's for which there exists a licence application within this radius. Policy 11 of the Finalised Plan doesn't contain a specific distance requirement but does include a requirement that the approval of a HMO does not result in an excessive concentration of such uses to the detriment of the character of the local area. It is clear that the issues of noise and disturbance referred to in point 2 above are exacerbated by the number of HMO's in the immediate area, including 2 HMO's at Nelson Street which are only some 70 metres from the application site. It is clear that whilst a 250 metre zone may be excessive and go beyond any potential detriment to the amenity of the immediate area, there is an issue with the concentration of HMO's in this area which is having a detrimental impact on residential amenity and therefore it is considered that there is no justification for departing from the terms of Policy H14 relating to concentration of HMO's.

It is concluded from the foregoing that insufficient weight can be accorded to any of 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 refused.

Design

As this is a change of use application where no building works are proposed, there are no design issues to be considered.

CONCLUSION

The use of the premises as a HMO contravenes Policy H14 of the adopted Local Plan in terms of the number of occupants and the concentration of HMO's in the area. This gives rise to problems of noise and disturbance which adversely affect the amenity of local residents and it is considered that there are no material considerations that would justify the approval of this application contrary to the terms of the Development Plan.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reasons:-

Reasons

- 1 The use of the premises as a house in multiple occupancy contravenes Policy H14 of the adopted Dundee Local Plan 1998 in terms of the distance from the nearest HMO's being within the 250 metre distance stipulated and the number of residents being in excess of 12. The number of occupants and the concentration of HMO's is having a detrimental impact on residential amenity due to noise and disturbance and it is considered that there are no material considerations that would justify the approval of this application contrary to the terms of the Development Plan.
- 2 The use of the premises as a house in multiple occupancy contravenes Policy 11 of the Finalised Dundee Local Plan Review 2003 in terms of the detrimental impact on residential amenity due to noise and disturbance and the concentration of HMO's to the detriment of the character of the local area.