

KEY INFORMATION

Ward Tay Bridges

Proposal

Change of use of vacant second floor to form extension to nightclub and roofspace to form offices and ancillary accommodation

Address

Fat Sams Nightclub
31 South Ward Road
Dundee
DD1 1PU

Applicant

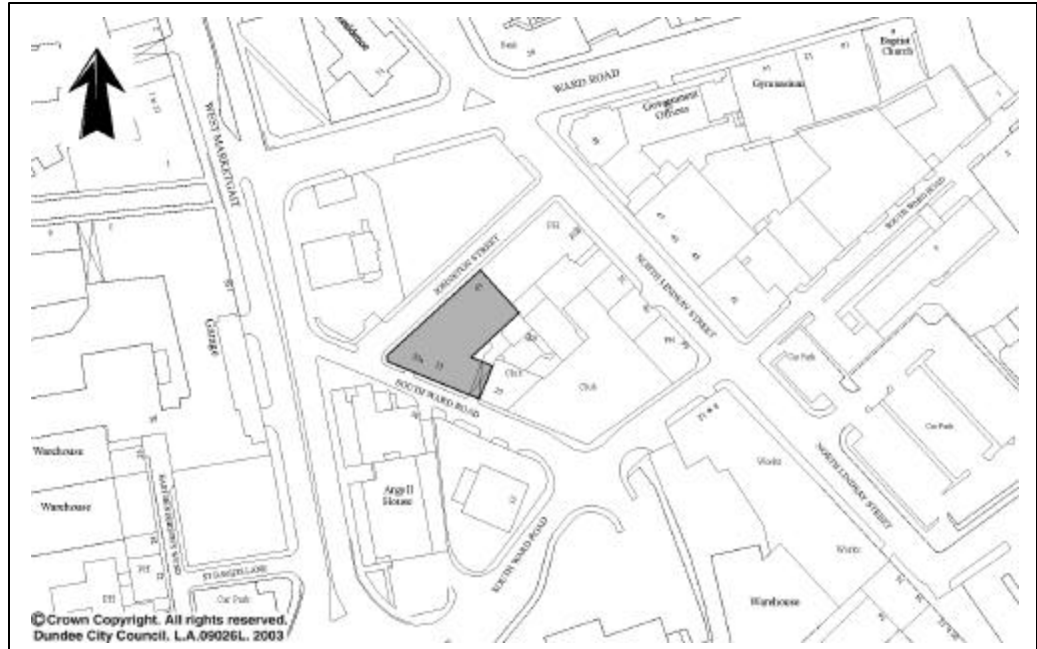
SWR Developments Ltd
Fat Sams Nightclub
31 South Ward Road
Dundee
DD1 1PU

Agent

James F Stephen
Milton Studio
Glamis
Angus
DD8 1UN

Registered 26 Feb 2004

Case Officer E Jones



Proposed Extension to Fat Sams Night Club

The change of use of vacant second floor to form extension to nightclub and roofspace to form offices and ancillary accommodation is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposal does not comply with Policy LT8 and partly complies with Policy BE15 of the Dundee Local Plan 1998. It does comply with the relevant policies, 17 and 59 of the Finalised Dundee Local Plan Review 2003 which are a strong material consideration in the determination of this application. The application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the change of use of the vacant second floor of this building to form an extension to the existing nightclub and alterations to the attic floor to form ancillary offices, stores and staff facilities. There are limited alterations to the external appearance of the building relating to the internal blocking up of windows.
- The proposal does not comply with the relevant policy relating to licensed premises in the Dundee Local Plan 1998 but does represent beneficial use of a Listed Building. However the site lies within the Cultural Quarter where uses of this kind are supported by the relevant policies in the Finalised Dundee Local Plan Review 2003.
- The noise attenuation measures proposed in the report submitted by the applicant's Acoustic Consultant are acceptable to the Head of Environmental Health and Trading Standards. There are no adverse comments from statutory consultees. There are no objections to the application.

DESCRIPTION OF PROPOSAL

The application is for planning permission for the change of use of the vacant second floor to form an extension to the nightclub which currently occupies the basement, ground and first floors of this building. The vacant attic floor will be used for ancillary offices, stores and staff facilities. The proposal involves limited external alterations mainly relating to the internal blocking of windows. The development proposes an additional 715 square metres of nightclub floorspace and 715 square metres of ancillary offices. The existing nightclub occupies approximately 2,000 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 is extensive previous history on this site but the most relevant applications are: change of use of ground and basement floors to nightclub, approved subject to conditions by Development Quality Committee 27 May 2003 (03/00190/COU); current applications for illuminated advertisements (04/00089/ADV) and Listed Building Consent (03/00211/LBC) which are yet to be determined.

Planning permission (ref. 03/00/FUL) has been granted subject to conditions 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.

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. There were no objections.

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 and complies with the main objective of the policy. However the proposal does not comply with Policy LT8 as detailed above 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 site lies within the Cultural Quarter and the proposed 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.

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 this 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 but the expansion of the use into the whole building will ensure its future

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 proposed extension will not significantly increase the existing noise and activity prevalent in the area 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 Any amplified music or vocals shall be so controlled as to be inaudible within the nearest noise sensitive residential accommodation.
- 3 Noise from mechanical and electrical services on the premises shall not exceed NR35 as measured 1 metre from the façade of the nearest residential accommodation.
- 4 Before the use commences, the building shall be insulated to achieve sound insulation in accordance with the submitted details which have been approved by the City Council.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 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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