

KEY INFORMATION

Ward Broughty Ferry

Proposal

Change of use to licensed restaurant

Address

107 Gray Street
Broughty Ferry
Dundee
DD5 2DN

Applicant

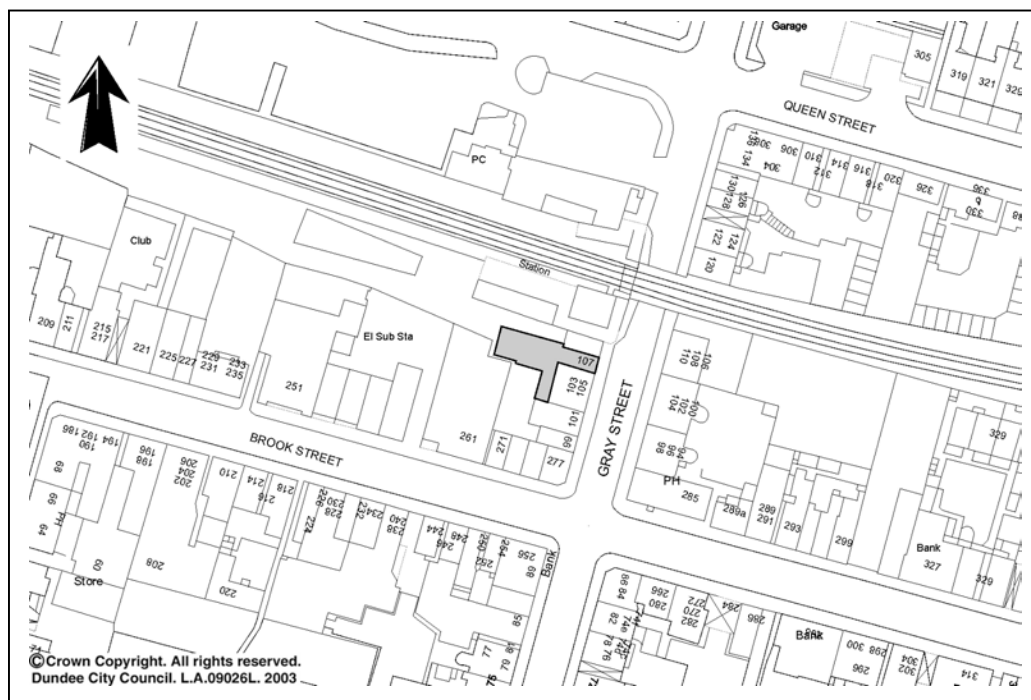
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Agent

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Registered 1 October
2004

Case Officer C Walker



A change of use to a licensed restaurant is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

The establishment of a restaurant at this site complies with the intention behind, but not the exact wording, of Policy LT8 of the adopted Local Plan. It also complies with Policy 53 of the Finalised Dundee Local Plan 1998 and will not have an adverse impact on residential amenity. It is therefore recommended for **APPROVAL** with conditions.

SUMMARY OF REPORT

- Planning permission is sought to change the use of a vacant shop to a licensed restaurant. Proposed opening hours are from 10.00 to 24.00 hours 7 days a week. The proposed floor plans indicate a seating area for 64 customers.
- The site is in a parade of 8 units, including a café and a hot food takeaway, in the Broughty Ferry district centre. On the opposite side of Gray Street are tenement buildings with ground floor commercial uses (including a restaurant) and 3 levels of flatted accommodation above.
- Policy LT8 of the adopted Local Plan states that no premises of this size selling hot food are acceptable within 45 metres of existing housing. Policy 53 of the Finalised Dundee Local Plan Review states that within District Centres the distance requirement from housing can be relaxed.
- Neighbour notification was carried out and the application was advertised and no public comment was received.
- Although the preamble to Policy LT8 suggests that the distance standard can be relaxed in district centres the actual wording of the policy does not. It is therefore concluded that the proposal does not comply with this policy. The proposal complies with Policy 53 of the finalised Local Plan and in addition the case for relaxing the distance rule is strengthened by the nature and character of the district shopping centre at this location.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of these vacant retail premises to a licensed restaurant. Proposed opening hours are from 10.00 to 24.00 hours 7 days a week. The applicants have stated that they do not intend to operate a takeaway facility from the premises. The only external changes proposed are the repainting of the front elevation and the insertion of 2 new extract fans on the side elevation.

The proposed floor plans indicate a seating area for 50 customers at ground floor level with the kitchen area to the rear. The upper floor contains the staff and toilet areas and seating for a further 14 customers. The gross floor area of the premises is some 215 sq. metres.

SITE DESCRIPTION

The site comprises the former Strachans shop which is currently vacant. The front of the premises is part of a single storey parade of shops running from the railway station all the way down to and turning the corner at Brook Street. This single storey building has a slated roof. There are a total of 8 units in this parade, including a café and a hot food takeaway. The units on either side of the application site are shops.

This front shop area in the single storey building is some 26 sq. metres in extent. There is also a large 2 storey extension to the rear of the shop providing an additional 80 sq. metres of sales space at ground floor level and 62 sq. metres at first floor with additional staff accommodation to the rear. This 2 storey extension is finished in roughcast and tiles and has blank elevations to the north and south and a door and some windows on the west elevation.

To the west of the site is a 2 storey retail building extending back from Brook Street and currently occupied by Superdrug and MacKays. To the north is Broughty Ferry railway station and adjoining ground and to the east, on the opposite side of Gray Street are tenement buildings with ground floor commercial uses (including a restaurant) and 3 levels of flatted accommodation above.

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 LT8 Licensed and Hot Food Premises: No premises selling hot food is acceptable within 45 metres of existing housing if the gross floor space exceeds 150 square metres (in this case the gross floor space is some 215 sq. metres).

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 53 states that outwith District Centres no premises selling hot food is acceptable within 45 metres of existing housing if floor space exceeds 150 square metres. It adds that within District Centres this distance requirement can be relaxed but hot food takeaways will not be acceptable where they directly adjoin residential property.

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 reuse of these premises in a central and accessible location is considered to be sustainable and in conformity with the Council's Agenda 21 policies.

SITE HISTORY

The 2 storey extension to the rear of the premises was built in 2 phases and planning permissions D13522 granted in September 1988 and D18399 granted in August 1993 are relevant.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the application was advertised as a bad neighbour development and as a potential departure from the development plan. No public comment was received.

CONSULTATIONS

The Head of Environmental Health and Trading Standards has stated that the extract for the cooking range is in a location that should not give rise to any odour problems and that noise from all mechanical and electrical plant should be controlled by a condition.

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 of the adopted Local Plan states that no premises selling hot food

is acceptable within 45 metres of existing housing if the floor space exceeds 150 square metres. In this case the nearest house on the opposite side of Gray Street are only 15 metres from the front of the premises.

The preamble to Policy LT8 states that in the District Shopping Centres the distance standards may be relaxed in recognition that the impact of proposals for licensed premises or hot food takeaways in commercial areas will be relatively less severe and are important uses with in these areas if they are to fulfil their function as district centres. It is considered that this is a case where the distance standards should be relaxed given the character of the surrounding area and that the proposed development complies with the intentions behind Policy LT8. However the actual wording of the policy does not incorporate this relaxation to the distance rule. It is therefore 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 the preamble to Policy LT8 in the adopted Local Plan, the Finalised Dundee Local Plan Review and the character and nature of the Broughty Ferry District Centre in the immediate vicinity of the application site.

As discussed in the Development Plan section above, the preamble to Policy LT8 of the adopted Local Plan contains an exception to the distance rule for premises selling hot food in district centres. This exception is almost identical to the wording of Policy 53 of the Finalised Plan.

Policy 53 of the Finalised Plan states that outwith District Centres no premises selling hot food is acceptable within 45 metres of existing housing if floor space exceeds 150 square metres. It adds that within District Centres this distance requirement can be relaxed but hot food takeaways will not be acceptable where they directly adjoin residential property.

The application site is within the Broughty Ferry district shopping centre. It does not adjoin any residential properties. This is therefore a case where the Plan suggests that the distance requirement should be relaxed.

It is considered that the case for relaxing the distance rule is strengthened by the nature and character of the district shopping centre at this location. The commercial units in the same block as the application site include a daytime café and a hot food takeaway. In addition planning permission has been granted to use Broughty Ferry station building (just 7 metres north of the application site) as a restaurant.

The nearest houses are upper floor flats on the opposite side of Gray Street. This block includes a ground floor restaurant and in addition there is a pub at the junction of Gray Street and Brook Street immediately to the south.

It is considered that the proposed restaurant will have no adverse impact on these flats. The main body of the restaurant sits behind Gray Street away from the flats and in any event the flats are much closer to the existing restaurant underneath their building and are equally close to the recently approved restaurant at Broughty Ferry railway station. The level of noise and activity associated with the existing nearby restaurants, takeaways and public houses in Broughty Ferry district centre as well as traffic on Gray Street and the operation of the railway level crossing means that the proposed restaurant will have no perceptible impact. This probably explains why no objections were received as a response to neighbour notification and advertisement of the application. Planning conditions are proposed to control the emission of noise from electrical and mechanical plant and to prevent any takeaway facility operating from the premises.

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

No design issues arise as a result of the proposed change of use

CONCLUSION

The establishment of a restaurant at this site complies with the intention behind but not the exact wording of Policy LT8 of the adopted Local Plan.

It also complies with Policy 53 of the Finalised Dundee Local Plan 1998 and will not have an adverse impact on residential amenity. It is considered that these factors provide a justification for approving 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 Noise from all electrical and mechanical plant shall not exceed NR35, as measured 1 metre from the façade of the nearest residential property.
- 3 No takeaway facility shall be operated from the site.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 to ensure that the building is not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties.
- 3 To accord with the stated intentions of the applicants and to prevent the potential adverse impacts of a late night takeaway facility on residential amenity.