

KEY INFORMATION

Ward Bowbridge

Proposal

Proposed Beer Garden to rear of building

Address

The Three Barrels
43-45 Strathmartine Road
Dundee

Applicant

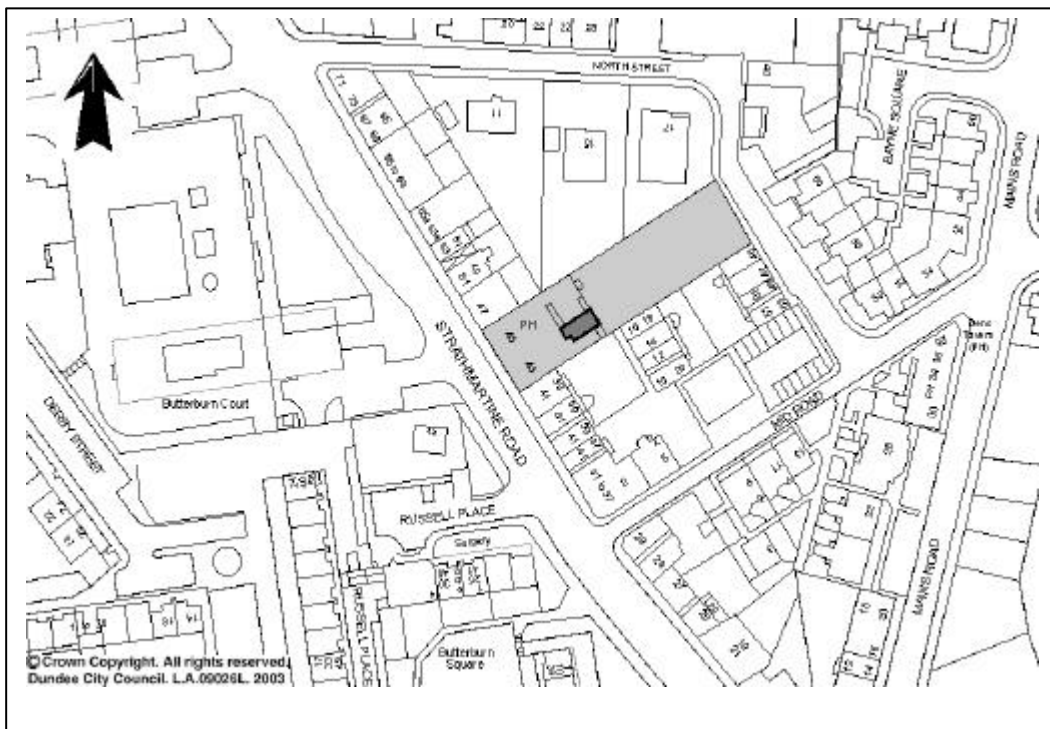
Commercial Pub Company
Belsize House
Belsize Road
Broughty Ferry
Dundee
DD5 1NF

Agent

Nicoll Russell Studios
111 King Street
Broughty Ferry
Dundee
DD5 1EL

Registered 4 May 2005

Case Officer G S Reid



Beer Garden Proposed in Strathmartine Road

A proposed Beer Garden is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

It is considered that there are sufficient material considerations to justify a departure to the provisions of the development plan in this instance.

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

SUMMARY OF REPORT

- The application is for the formation of an area of decking for use as a beer garden on the north east (rear) elevation of the John Barleycorn Public House at 43-45 Strathmartine Road, Dundee.
- The proposed development raises issues for consideration in terms of the Leisure and Tourism and Housing Policies of the Dundee Local Plan 1998 and Policy 1 and Policy 53 of the Finalised Dundee Local Plan Review.
- No letters of objection were received to the proposed development.
- In order to allow for an assessment of the potential impact it is considered that planning permission should only be granted for 1 year.
- It is considered that the proposed development is not in accordance with the provisions of Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998. It is considered that there are sufficient materials consideration to justify the departing from the provisions of Policy LT8 of the development plan in this instance. It is considered that the proposal complies with the remaining policies of the development plan.

DESCRIPTION OF PROPOSAL

The application is for the formation of an area of decking for use as a beer garden on the north east (rear) elevation of the John Barleycorn Public House at 43-45 Strathmartine Road, Dundee.

The applicant has already erected the area of decking as proposed.

SITE DESCRIPTION

The application property is located on the east side of Strathmartine Road and is to the north of the junction with Mid Road. The premises are single storey in height and operated as the John Barleycorn Public House (formerly known as the Three Barrels). There is an area of car parking to the rear (east) of the property which serves the public house. There are residential properties in the surrounding area.

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 H1: Existing Residential Areas. The policy supports the retention or introduction of service and facilities which are desirable within residential areas provided they do not adversely affect the environmental quality enjoyed by local residents by reason of design, layout, parking and traffic movement issues, noise or smell and they are in accordance with other policies in the plan.

Policy LT8: Licensed and Hot Food Premises. No licensed premise is acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres.

Dundee Urban Nature
Conservation Subject Local Plan
1995

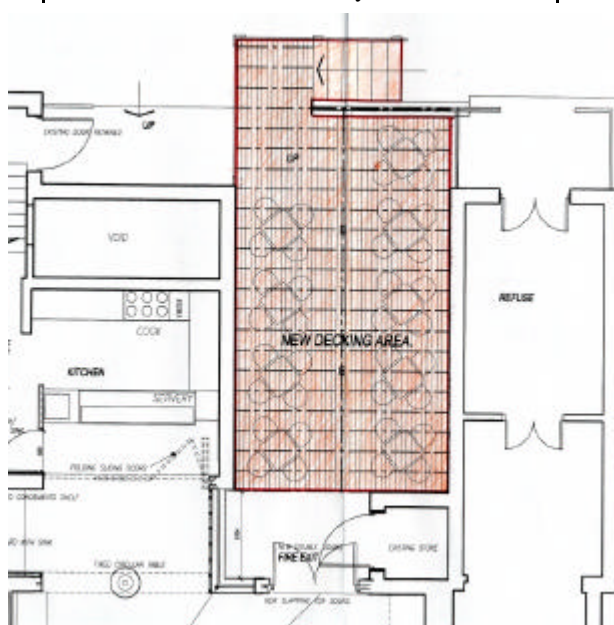
There are no policies relevant to the determination of this application

Finalised Dundee Local Plan Review

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities. The policy encourages the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the Plan and seek to minimise any effect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise and smell.

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



policy states that no licensed premises is acceptable within 30 metres of existing or proposed housing if the outlet does not exceed 150 metres gross floorspace.

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

Key Theme 7 requires that access to facilities, services, goods and people is not achieved at the expense of the environment. It is considered that the proposal meets this key theme.

SITE HISTORY

There is no site history of relevance to the consideration of this application.

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the proposal was advertised in the “Dundee Courier and Advertiser” on the 23 May 2005 as a potential departure to the provision of the development

No objections were received to the proposed development.

CONSULTATIONS

Head of Environmental Health and Trading Standards has advised that he had no objection to the proposed development subject to no amplified music being played or produced outside.

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 H1 supports the retention or introduction of service and facilities which are desirable within residential areas provided they do not adversely affect the environmental quality enjoyed by local residents by reason of design, layout, parking and traffic movement issues, noise or smell and

they are in accordance with other policies in the plan.

This is an existing public house which, lies within the Hilltown District Centre. There are various shops and businesses within this area including hot food takeaways. Some of these facilities do attract traffic and pedestrians often later into the evening, eg to the video rental and hot food takeaways. The provision of a beer garden on the north east side of the public house is likely to be an additional attraction to patrons in suitable weather conditions but is unlikely to be a primary attraction to the premises throughout the year. In principle, the use of an outside area as a beer garden at an existing public house is often acceptable subject to specific hours of operation and noise restrictions.

Policy LT8 advises that no licensed premises is acceptable within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres. The application is in respect of use of an outside patio of 35 sq. metres at an existing public house. Extensions to public houses and beer gardens are required to comply with these distance requirements in the interests of residential amenity. There are houses within 30 metres and therefore the proposal does not comply with this policy. In the preamble to the Policy it is highlighted that some relaxation of the standards may be allowed in recognition that the impact may be less severe in commercial areas such as these and to allow them to fulfil their function as district centres. Given the proposal is to an existing public house in a district centre it is considered that there would be sufficient material considerations to justify a departure to the policies of the plan in this instance. Given the proximity of residential properties there could be the potential for disturbance to amenity of residents due to noise from patrons. In the interests of residential amenity it is considered that a limited permission may be the most appropriate to allow for a reassessment of the suitability of the location for a beer garden. In addition, the hours of operation should also be limited, by condition, to prevent disturbance later in the evening.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan however, there are sufficient material

consideration to justify a departure to the plan in this instance

Other Material Considerations

Policy 1 sets out similar criteria to Housing Policy H1 of the adopted Local Plan. For the reasons outlined above it is considered that the proposal is acceptable in terms of this policy.

Policy 53 sets out similar criteria to Leisure and Tourism Policy LT8 of the adopted Local Plan. In addition, this policy includes an exception that within district centre control maybe relaxed. In this case it is considered that these controls may be relaxed and also justify a departure to Policy LT8 of the adopted plan. For the reasons outlined above it is considered that the proposal is acceptable in terms of this policy.

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.

Design

The design of the decking to the rear of the building is considered to be acceptable.

CONCLUSION

It is considered that the proposed development is not in accordance with the provisions of Leisure and Tourism Policy LT8 of the Dundee Local Plan 1998. It is considered that there are sufficient materials consideration to justify the departing from the provisions of Policy LT8 of the development plan in this instance. It is considered that the proposal complies with the remaining policies of the development plan.

It is considered that there are sufficient material considerations to justify a departure to the provisions of the development plan in this instance.

RECOMMENDATION

The application is recommended for APPROVAL subject to conditions.

- 1 The development hereby permitted shall be commenced within five years from the date of this permission

- 2 That no amplified music shall be permitted to be played or produced outside.
- 3 the use hereby permitted shall cease not later than 28 June 2006 and any beer garden furniture shall be removed from the site
- 4 Use of the beer garden hereby approved shall be limited to the hours of 1200 to 2000 on any day.

Reasons:

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 In the interests of the residential amenity of surrounding neighbours.
- 3 in order that the City Council may have the opportunity of reviewing the impact of the operation of this development on the amenities of occupants of nearby residential properties
- 4 to ensure that, having regard to its location, the site is not used in an over-intensive manner and to protect the amenities of the occupiers of nearby properties