

**KEY INFORMATION****Ward** Tay Bridges**Proposal**

Change of use on 2nd and 3rd floor from retail to offices and nightclub

**Address**

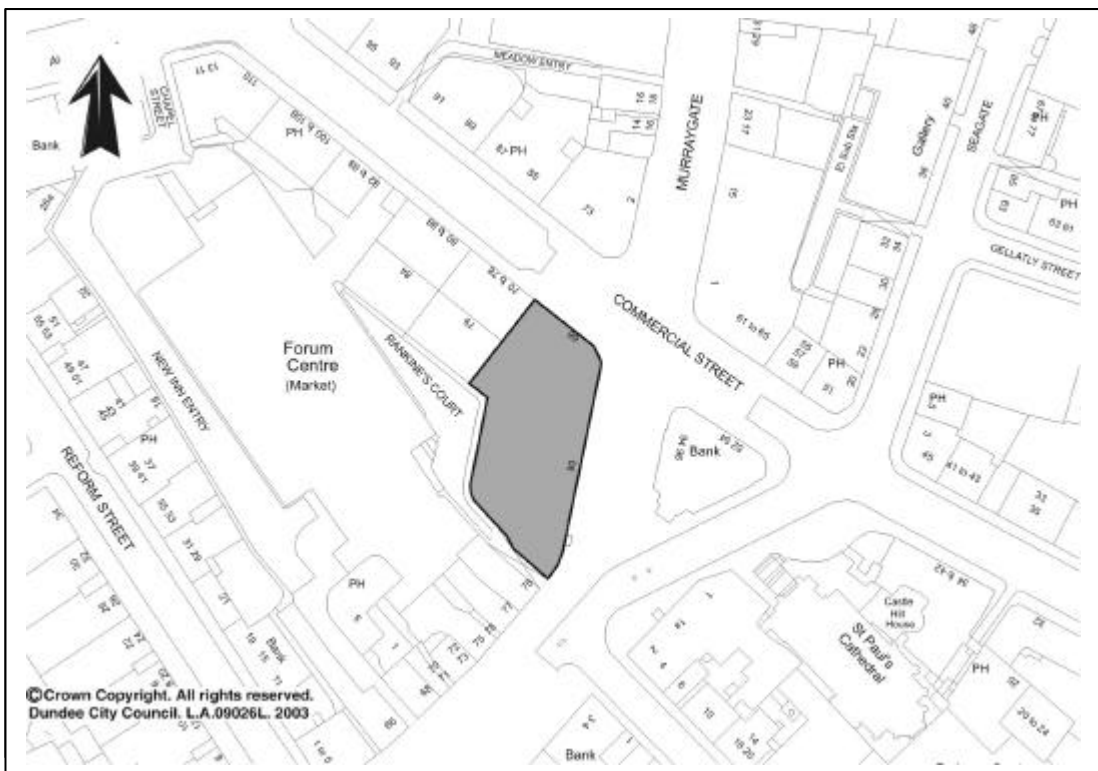
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**Applicant**

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**Registered** 13 April 2006**Case Officer** C Walker

# Proposal for Nightclub and Offices in Former Arnotts Building

The change of use from retail to offices and nightclub is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development contravenes Policy 52 of the adopted Local Plan and would have an adverse impact on the amenities of nearby residents by reason of noise and disturbance. Accordingly the application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- Planning permission is sought to change the use of the top 2 floors of this building to offices (1,200 sq. metres) and a nightclub (970 sq. metres).
- The site comprises the vacant upper floors of the redeveloped Category A listed Arnotts building. There are residential properties on the upper floors of adjoining and nearby buildings.
- Policy 52 of the Local Plan contains a presumption against licensed premises of this size in the City Centre.
- 2 letters of objection were received from the occupiers of nearby dwellings, concerned about noise, crowds, anti social behaviour and overlooking.
- The Head of Environmental Health and Trading Standards requested a Noise Impact Assessment but none was submitted.
- The proposed development contravenes Policy 52 of the adopted Local Plan and would have an adverse impact on the amenities of nearby residents by reason of noise and disturbance.

## DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of the top 2 floors of this building to offices and a nightclub, with the offices on the second floor and the nightclub on the top floor. Internally the spaces above the listed building at 77 and 78 High Street will remain unaltered and the modern space at 80 High Street will be subdivided to provide the new uses. No external changes to the building are required to provide the new uses.

Much of the upper floor areas to the rear of the building are occupied by lifts, stairs and services. The proposed offices would have a net area of some 1,200 sq. metres and the nightclub would be some 970 sq. metres.

No information on the proposed nightclub, such as hours of operation or occupancy levels, has been provided.

## SITE DESCRIPTION

The site comprises the vacant second and third floor levels of the redeveloped Arnotts building. The basement, ground floor and first floor levels are in retail use. Most of the floor area lies within the new build area and consists of large undivided floor plates accessed by a lift and a rear stairwell. The site also includes the upper floor levels of the adjoining listed building sitting above the pend into Rankines Close and 2 shop units at 77 and 78 High Street. This original part of the building is separated from the main space by the lift shaft and contains original decorative plasterwork.

This is a Category A listed building occupying a prominent site in the Central Area Conservation Area. There are residential properties on the upper floors of adjoining and nearby buildings, including flats directly adjoining the application site and directly across the road from the application site.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

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

### Dundee Local Plan 2005

The following policies are of relevance:

Policy 52: Restraint on Licensed Premises in the City Centre

Within the City Centre as defined on the Proposals Map, care will be taken to avoid an excessive concentration of public houses and nightclubs, particularly those in close proximity to residential areas. As such, there will be a presumption against the establishment of licensed premises (excluding restaurants) in the City Centre:

- a with a total floor area in excess of 300 square metres; or
- b any more than one in five units in a single frontage where the combined floor area is in excess of 300 square metres.



This restraint will not apply in the Cultural Quarter although the development of night clubs will be carefully controlled so that they do not dominate its character and disrupt the Quarter as a daytime visitor environment.

### 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 Councils Local Agenda 21 policies seek to protect health by creating safe, clean and pleasant environments. It is considered that the development will give rise to noise and disturbance that would run counter to the aims of these policies.

## SITE HISTORY

Planning permission and listed building consent were granted in 2003 to convert and redevelop the former Arnotts building to provide retail floor space - applications 02/00652/FUL and 02/00653/LBC refer. These consents were implemented but the upper 2 floors of the building have remained vacant.

More recently in July 2006 planning permission was granted to change the upper 2 floors of this building to offices - application 06/00325/FUL refers. This consent has not been implemented.

## PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the proposal was advertised both as a bad neighbour development and as contravening Policy 52 of the Local Plan. 2 letters of objection were received from the occupiers of nearby dwellings. The objectors are concerned about noise, crowds, anti social behaviour and overlooking.

Copies of these letters are available for inspection in the Members Lounges and the points raised are considered in the Observations Section of this Report.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards has stated that given the proximity of residential accommodation that a full Noise Impact Assessment should be submitted for this development.

Historic Scotland has informally commented that they have no objections to the development as there are no physical changes to the historic fabric of the building.

## 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 proposed development clearly contravenes Policy 52 of the adopted Local Plan as it is well in excess of the 300 sq. metres limit specified and is not in the Cultural Quarter. The preamble to the policy points out that licensed premises can affect the amenity of an area particularly where there may be residential accommodation close by (as is the case here) and that traffic and noise nuisance should be closely examined.

The application site is a classic example where a large licensed premises could result in a serious impact on residential amenity. The property directly adjoins flats on Commercial Street and there are also flats directly across the road (some 25 metres distant). Residential use is an increasing component of upper floors in this part of the city. Night clubs by their very nature are associated with late night use and there are no similar facilities in the immediate vicinity.

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 Views of Objectors and Consultees

Given the close proximity of the proposed night club to residential accommodation, the Head of Environmental Health and Trading Standards has requested that a full Noise Impact Assessment should be submitted. This was requested by letter in May but no response from the

applicants was received. The concerns of the local residents relate to noise, crowds, anti social behaviour and overlooking. Taking into account the absence of any information on noise generated from within the premises, the close proximity of dwellings and the fact that there are no similar late night uses in the vicinity, it is considered that the concerns about noise, crowds and anti social behaviour are legitimate.

It is not considered that there would be problems with overlooking as screening (in the form of window blinds, for example) could be provided.

- b Listed Building Issues

Although the building is Category A listed, Historic Scotland has informally commented that they have no objections to the development as there are no physical changes to the historic fabric of the building. The proposed change of use involves no alterations to the important internal spaces above 77 and 78 High Street. The pillared tea room and art deco room are no more and no less accessible as a result of the proposed development.

However it should be borne in mind that the windows on the building are single glazed sash and case windows which would not provide any substantial noise attenuation in the event of the premises being used as a night club. In addition, a night club use would probably require the blanking off of all the top floor windows which may be problematic in terms of preserving the appearance of this listed facade.

- c Office Use

There are no concerns about the proposed second floor office use and indeed planning permission has already been granted for office use at second and third floor levels - application 06/00325/FUL refers.

It is concluded from the foregoing that the material considerations weigh against the grant of planning permission. It is therefore recommended that

planning permission be refused in line with the provisions of the development plan.

### Design

No elevational alterations are proposed and internal changes only affect the redeveloped sections of the listed building and not the historic fabric.

### CONCLUSION

The proposed development contravenes Policy 52 of the adopted Local Plan and would have an adverse impact on the amenities of nearby residents by reason of noise and disturbance.

### RECOMMENDATION

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

### Reason

- 1 The proposed development contravenes Policy 52 of the adopted Dundee Local Plan Review 2005 and due to its size, hours of operation and close proximity to residential properties would adversely impact on residential amenity by reason of noise and disturbance. There are no material considerations that would justify approving the application contrary to the Development Plan.