

**KEY INFORMATION****Ward** East Port**Proposal**

Installation of small smoking area with retractable canvas awning above

**Address**

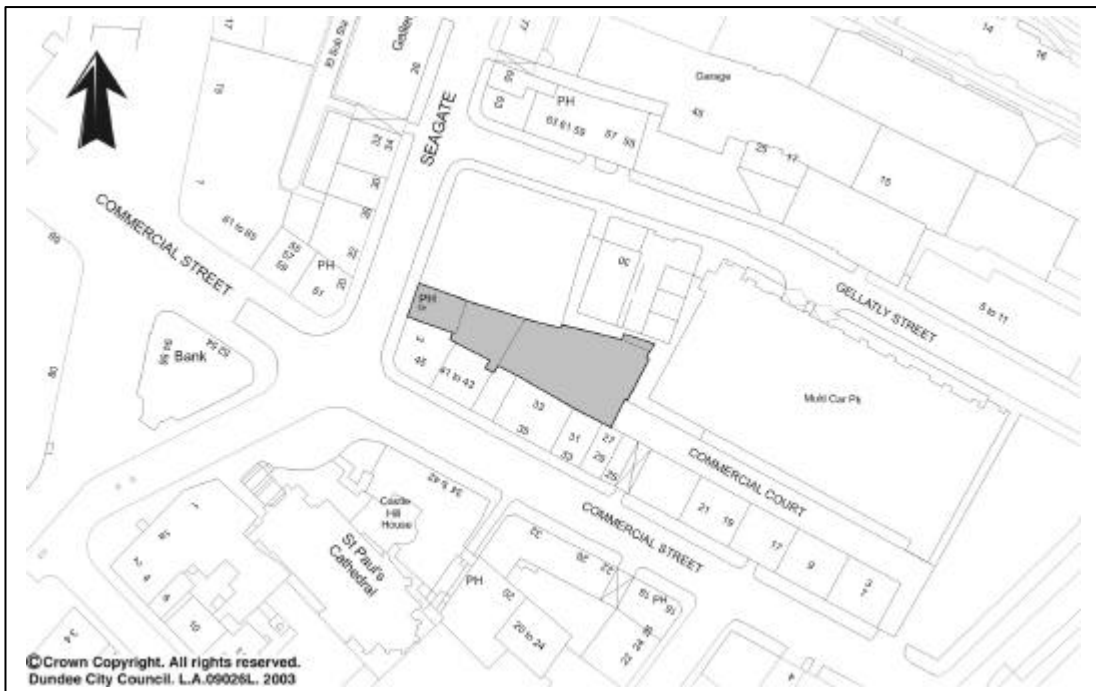
1-5 Seagate  
Dundee  
DD1 2EG

**Applicant**

Belhaven Brewery Co  
Atrium House  
6 Backwalk  
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FK8 2QA

**Agent**

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**Registered** 12 April 2006**Case Officer** J Young

## Consent Sought for Smoking Awning to rear of Public House in Seagate

The installation of small smoking area with retractable canvas awning is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

**RECOMMENDATION**

It is considered that the proposal complies with the Policies in the Dundee Local Plan Review 2005 and there are no material considerations to justify refusal of the application. The proposal is recommended for **APPROVAL**.

**SUMMARY OF REPORT**

- Planning permission is sought for an external smoking area to the rear of a public house at 1-5 Seagate, Dundee.
- The proposal raises issues for consideration in terms of Policies 1, 60 and 61 of the Dundee Local Plan Review 2005. It is considered that the proposal complies with these policies.
- One letter of objection was received on the grounds of the adverse impact on amenity due to noise and smell. The views of the objector are not supported in this instance.
- There are no material considerations that would justify the refusal of planning permission. Therefore the application is recommended for **APPROVAL**.

## DESCRIPTION OF PROPOSAL

This application seeks planning permission for an external smoking area at the rear of The Yard Bar, 1-5 Seagate, Dundee.

The smoking area will be located adjacent to an existing fire exit doorway and a canvas retractable awning will be fixed above the doorway. It will protrude 1.75m from the building and two downlighters will be fixed to the wall below the awning. The smoking area itself will be surrounded with 2m high weld mesh fencing and gates and a 1.2m gap will remain to the north for access along a mutual lane.

The proposal is designed to provide an area for those patrons of the public house who wish to smoke, in light of the new Legislation that bans smoking in public houses and other public places from the 26th March 2006.

## SITE DESCRIPTION

The application site is a single storey public house with a modern frontage and it is a B-listed building. There is a glass and steel fascia sign with 3 downlighters and white painted columns either side of the entrance. There are some menu boards attached to the columns and the entrance is set back from the footway with a steel and glass canopy over the entrance. The public house extends some 55m towards Gellatly Street to the east. There are three fire exits located on the north elevation (to the rear) of the building, which face onto an Environmental Health and Trading Standards depot at Gellatly Street. 2m high wire mesh fencing and a gate are located along the north boundary with this depot. A vent and cooler unit are located on the wall next to the exit, which is proposed to be used for the smoking area access. There is a mutual access lane to the east, which has a gated access onto Gellatly Street and Commercial Street. Gellatly Street car park is located immediately to the east and there are flats to the south on Commercial Street, approximately 20m from the proposed smoking area. There are two public houses to the north on Seagate.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

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

### Dundee Local Plan Review 2005

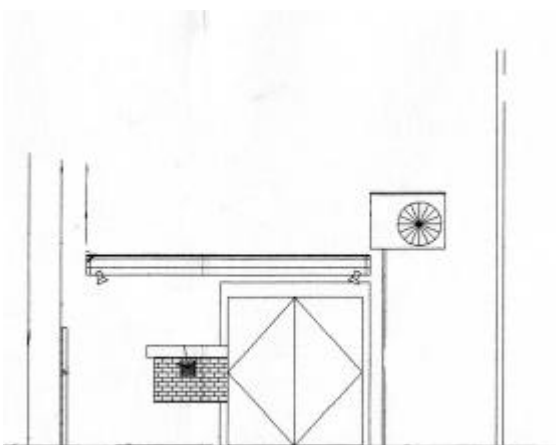
The following policy is of relevance:



Policy 1: Vibrant and Sustainable Communities seeks to minimise any effect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Policy 60: Alterations to Listed Buildings - will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character.

Policy 61: Development in Conservation Areas will be expected to preserve or enhance the character of the surrounding area.



## 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 proposal complies with Key Theme 7, "Access to facilities, services, goods and people is not achieved at the expense of the environment and are accessible to all".

## SITE HISTORY

Applications for planning permission and listed building consent were being recommended for refusal and were subsequently withdrawn by the applicant in March 2006. The current proposal has amended the size of the smoking area, to ensure there is permanent access along a mutual path to the rear of the property.

Planning permission and advert consent were granted for various alterations to the frontage and signage between 1999 and 2002.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and one letter of objection was received on the grounds that the proposed smoking area will increase noise and smell issues for a neighbouring resident in a second floor flat at Commercial Street.

Copies of the objection letter are available for inspection in the Members' Lounges.

The issues raised will be discussed in further detail in the 'Observations' section of this report.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that given the location of the proposed smoking area, it is not considered that

noise from patrons will be an issue to nearby residential properties, either on Commercial Street or Gellatly Street. No objections are raised to the development, on the basis that a condition is imposed to restrict noise emanating from the building and patrons. A standard guidance note regarding smoking shelters will also be attached, if Members are minded to approve the application.

No comments were received from any other consultees.

## 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.

In terms of Policy 1 of the Dundee Local Plan Review 2005, the application does not raise issues in terms of design and layout, parking and traffic movement or residential amenity issues and therefore the Policy is discharged.

New legislation came into force on March 26th 2006 which introduces a ban on smoking in public places. This proposal has been designed to provide a designated area for those patrons of the public house who wish to smoke, in light of this new legislation.

The proposed smoking area is located adjacent to one of three fire exits on the north wall and to the rear of the public house. A retractable canvas awning will be attached to the wall above the doorway and will protrude 1.75m from the building. Two downlighters will be attached to the wall below the awning. 2m high wire mesh fencing and gates will enclose the smoking area. The gates will have a panic bar system attached and a 1.2m gap will be retained for access purposes along the mutual lane.

The nearest flatted properties are 20m to the south of the proposed smoking area and there is the full width of the public house between the application site and nearest residents. Therefore it is considered there will be no noise or smell issues for residents. The smoking area is located adjacent to a fire exit and fronts onto a mutual access lane, which is sandwiched between buildings. A cleansing depot is located immediately to the north of the application site. It is considered that the proposed area is located far enough away from residential properties to have little or no impact on their amenity in terms of noise and/or smell issues. The Head of Environmental Health and Trading Standards supports this view.

Policy 60 of the Dundee Local Plan Review 2005 states that alterations to listed buildings will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character. The proposals are considered acceptable and will not detract from the architectural or historic character of the building. Therefore this Policy is discharged.

Policy 61 states that all development proposals will be expected to preserve or enhance the character of the surrounding area. The smoking area is located to the rear of the building and will not impact on any street frontage within the conservation area and so the character of the conservation area is preserved. Therefore this Policy is discharged.

From the foregoing it is concluded that the proposal complies with the provisions of Policies 1, 60 and 61 of the Dundee Local Plan Review 2005.

## Other Material Considerations

### Access Issues

The proposal includes installing 2m high weld mesh fencing and gates (with panic bar system) around the proposal site. A 1.2m gap will be retained for fire escape purposes for this business and others which share this access path.

### Objections

The objector is concerned about an increase in noise and smell issues emanating from the proposed external smoking area to the rear of the public house. The nearest residential

properties are located some 20m from the proposed smoking area. The Head of Environmental Health and Trading Standards advises that given the location of the proposed smoking area, it is not considered that noise from patrons will be an issue to nearby residential properties, either on Commercial Street or Gellatly Street. No objections are raised to the development, on the basis that a condition is imposed to restrict noise emanating from the building and patrons. It is considered that the imposition of this condition will be sufficient to protect the amenity of nearby residents.

It is concluded from the foregoing that insufficient weight can be accorded to the material considerations such as to justify the refusal of planning permission. It is therefore recommended that planning permission be approved.

## Design

The smoking area is located at the rear of the public house, adjacent to a mutual access lane and does not face onto a public street. The smoking area will be fenced off and there will be a retractable canvas awning on the building, which is considered acceptable at this location.

## CONCLUSION

It is concluded that the proposed development complies with the provisions of Policies 1, 60 and 61 of the Dundee Local Plan 2005 and there are no material considerations to justify refusal of the application. The views of the objector are not supported in these circumstances. It is recommended that planning permission be APPROVED.

## RECOMMENDATION

It is recommended that planning permission be GRANTED subject to the following condition(s):

- 1 The development hereby permitted shall be commenced within five years from the date of this permission
- 2 No entertainment (music or vocals, amplified or otherwise, including TV) shall be provided within the application site

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To protect the amenity of residents from unacceptable noise levels.