

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

Erection of two scissor arm canopies above two window openings to front elevation

**Address**

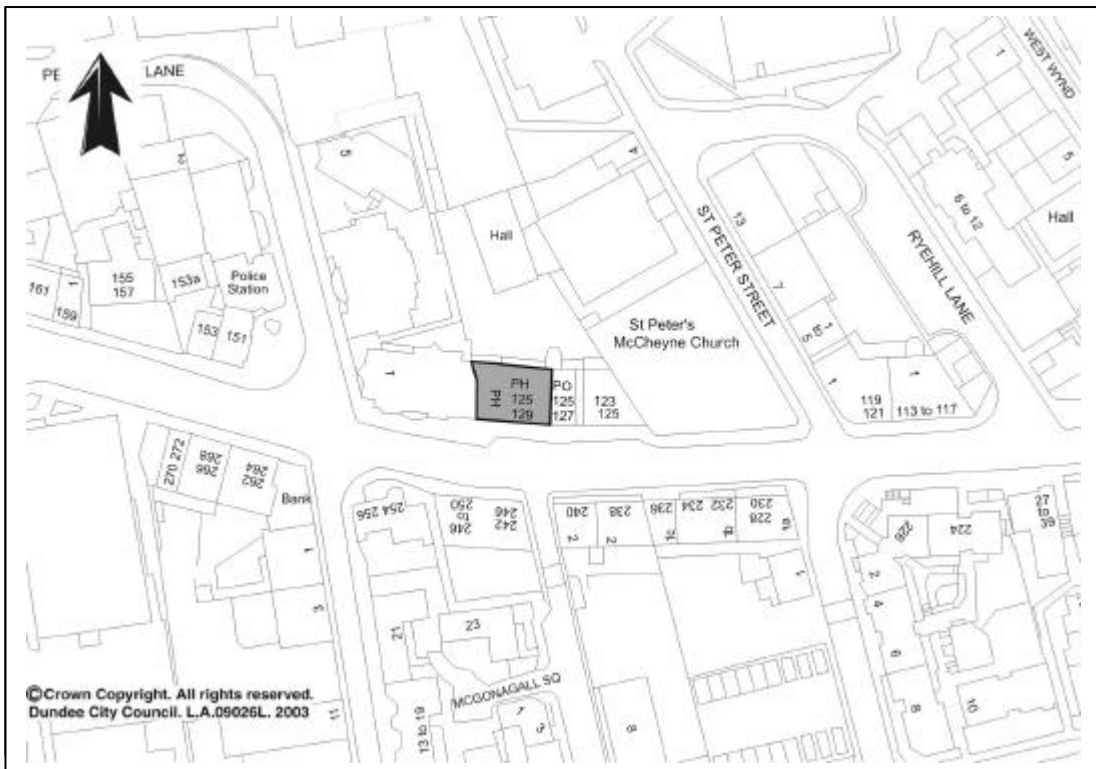
127A-129 Perth Road  
Dundee  
DD1 4JD

**Applicant**

Belhaven Brewery Company  
Atrium House  
6 Back Walk  
Stirling  
FK8 2QA

**Agent**

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

**Registered** 8 May 2006**Case Officer** Eve Jones

## Consent sought for Canopies at Pub in Perth Road

Retrospective Consent for the erection of two canopies above two window openings to front elevation is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

It is concluded that the development is contrary to Policy 1. This is a traditional floor pub in a stone tenement on the north side of the Perth Road. The awnings are above the windows on either side of the entrance doors. There are 3 storeys of flats on the upper floors. The application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- Retrospective planning permission is sought for the erection of two awnings which have been installed on the front elevation of this public house. They are 2.3 metres wide by 1.5 metres deep and are 3.3 metres above the footway. The awnings are blue with the pub name along the front.
- This is a traditional ground floor pub in a stone tenement on the north side of Perth Road. The awnings are above the windows on either side of the entrance doors. There are 3 storeys of flats on the upper floors.
- Policy 1 - Vibrant and Sustainable Communities seeks to minimise any effect on the environmental quality enjoyed by local residents. Policy 61 covers development in Conservation Areas. Three objections were received from local residents on the grounds of impact on pedestrians, increased litter and contravention of the smoking ban.
- It is considered that the proposal is contrary to Policies 1 and 61 by reason of increased noise, smell, litter, the impact on pedestrians and traffic safety and the appearance of the building and Conservation Area. The terms of the objections are supported.

## DESCRIPTION OF PROPOSAL

Retrospective planning permission is sought for two awnings which have been installed on the front elevation of the building. The awnings are housed in external boxes attached to the fascia and are 2.3 metres wide. They project 1.5 metres across the footway and are located 3.3 metres above the footway.

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 which bans smoking in public houses and other public places.

## SITE DESCRIPTION

The application site is a traditional public house occupying the ground floor of a 4 storey, stone built tenement on the north side of Perth Road. The awnings have been installed above the windows on either side of the entrance doors. The awnings are blue fabric which matches the exterior painting and have the pub name on the front.

## 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 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

The Memorandum of Guidance on Listed Building and Conservation Areas issued by Historic Scotland is of relevance to 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 does not comply with either Key Theme 8: "Health is protected by creating safe, clean, pleasant environments" or Key Theme 15: "Diversity and Local distinctiveness are valued and protected".



## SITE HISTORY

06/00442/ADV is a partner application for advertisement consent. The awnings bear the name of the public house and are therefore, under the terms of the legislation, considered to be an advertisement. Determination of this application will await the decision of the Committee in respect of the application the subject of this report.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and 3 letters of objection were received on the grounds that smokers will gather under the awnings which will affect pedestrians trying to pass, will increase litter and will contravene public policy regarding the smoking ban. Copies of the objection letters 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 the premises are situated directly beneath residential accommodation and groups of individuals congregating to smoke beneath the windows of living

apartments is likely to give rise to disturbance to residents and noise complaints. The premises have a regular extension to their license permitting liquor to be served until 0000hrs.

## OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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 raises issues in terms of design and layout, pedestrian movement issues, noise and smell.

The proposed smoking area is located on the front elevation of the building. The two awnings are of a type traditionally used above shops to screen foodstuffs from the effects of sunlight. They are incongruous on this building and have a detrimental impact on its appearance. The nearest flatted properties are immediately above the site. This development has the potential to affect residents by reason of noise and smell and there is likely to be an increase in litter in the local area of the awnings. The Head of Environmental Health and Trading Standards supports this view. The site lies within the busy Perth Road District Centre, the footway is not wide at this point and there is a high level of pedestrian traffic at all hours of the day and well into the evening. It is likely that the size and position of the awnings encourage significant numbers of patrons to gather beneath them to the detriment of the passage of pedestrians on the footway and with the potential for pedestrians to walk on to the road to avoid such large groups to the detriment of pedestrian and vehicular safety.

It is considered for the above reasons that the proposed development does not comply with Policy 1.

Policy 61 states that all development proposals will be expected to preserve or enhance the character of the surrounding area. As detailed above, the installation of awnings on the frontage of the public house is detrimental to its character and it is considered that it does not preserve the character of the Conservation Area. Therefore the proposed development does not comply with Policy 61.

From the foregoing it is concluded that the proposal does not comply with the provisions of Policies 1 and 61 of the Dundee Local Plan Review 2005.

## Other Material Considerations

The Memorandum of Guidance on Listed Building and Conservation Areas provides guidance on the acceptability of proposed developments. Paragraph 2.21 notes that it is not merely the building itself which is important but also its contribution to the street in which it stands. This building is in a prominent central location and makes a significant contribution to the character of Perth Road in this vicinity.

It is also concluded from the foregoing that the statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 would not be satisfied by the approval of this proposal.

## Objections

Two objectors are concerned about the legality of the use of the awnings for smoking under the terms of the recent smoking ban. That is a matter for regulation by other departments of the Council. The remaining objector is concerned by the impact on pedestrians and the increase in litter. These issues are discharged in the policy section above. The terms of the objections on planning grounds are supported.

There are no material considerations which support the granting of planning permission contrary to the terms of the Development Plan.

## Design

The issues of design have been addressed in the foregoing observations.

## CONCLUSION

It is concluded that the proposed development does not comply with the provisions of Policies 1 and 61 of the Dundee Local Plan 2005 or the Memorandum of Guidance on Listed Buildings and Conservation Areas. The views of the objector are supported in these circumstances. Should Members be minded to agree with the recommendation of the Director of Planning and Transportation, enforcement action to seek the removal of these canopies will follow. It is recommended that planning permission be REFUSED.

## RECOMMENDATION

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

### Reasons

- 1 The proposed development is contrary to Policy 1 - Vibrant and Sustainable Communities of the Dundee Local Plan Review 2005 as the size, design and location will be detrimental to the appearance of the building; the awnings will encourage patrons to congregate on the footway to the detriment of pedestrian and vehicular safety and the use of the proposed awnings will be likely to result in increased noise and smell to local residents. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 2 The proposed development is contrary to Policy 61 - Development in Conservation Areas of the Dundee Local Plan Review 2005 as it does not preserve or enhance the character of the area. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.