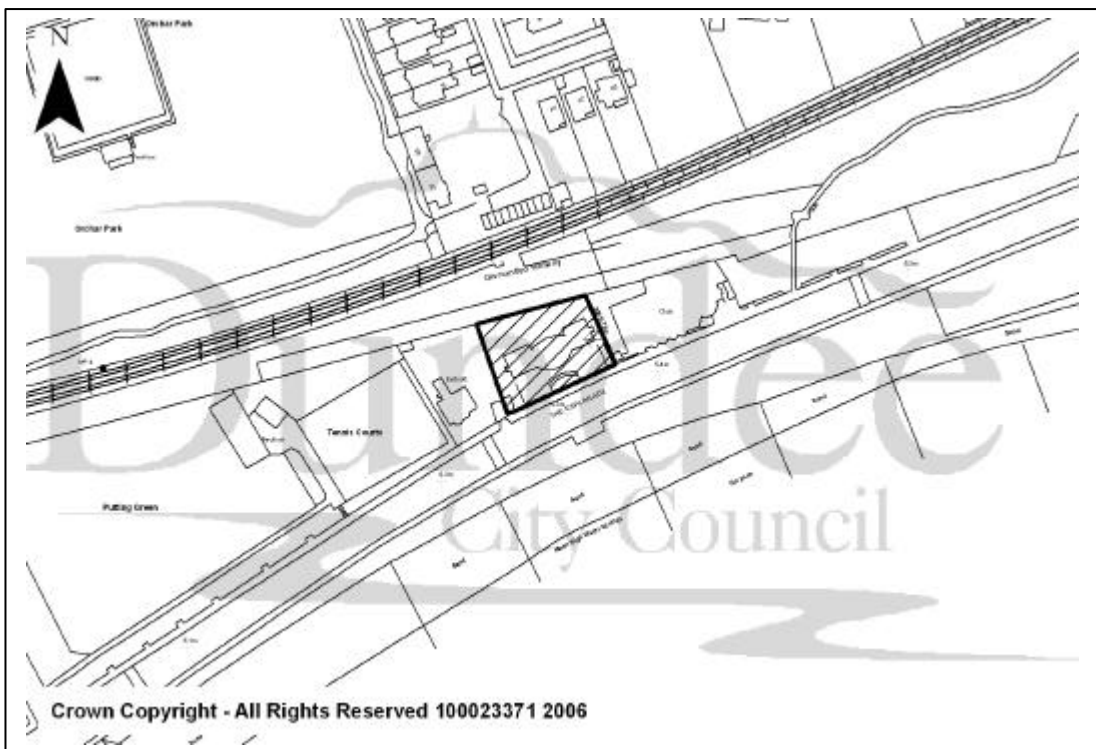


**KEY INFORMATION****Ward** Broughty Ferry**Proposal**

Extension to restaurant

**Address**The Glass Pavilion  
The Esplanade  
Broughty Ferry**Applicant**DWL Development  
(Scotland) Ltd  
The Glass Pavilion  
The Esplanade  
Broughty Ferry  
Dundee DD5 2EP**Agent**Peter Inglis Architects  
30 South Tay Street  
Dundee  
DD1 1PD**Registered** 29 Sep 2006**Case Officer** C Walker

## Extension Proposed to Glass Pavilion in the Esplanade

The extension to restaurant is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed extensions to the building are well designed and complement the character and appearance of the listed building. Although the extended premises are within 45 metres of existing and proposed housing, it is considered that subject to the imposition of appropriate conditions there will not be an unacceptable impact on the amenities of nearby residents. The application is recommended for **APPROVAL** with conditions.

**SUMMARY OF REPORT**

- Planning permission is sought to substantially extend the "Glass Pavilion" restaurant by constructing an extension to the rear of and an upper floor extension above the existing building. The design of the proposed extension seeks to mirror the existing structure.
- Policy 53 of the adopted Local Plan contains a presumption against restaurants of this size within 45 metres of existing and proposed housing.
- Taking into account the fact that the premises currently operate as a restaurant without amenity problems, that there will be no takeaway facility and that hours of operation will be restricted, it is considered that there is a justification for approving the proposed extensions to the building contrary to Policy 53 of the Local Plan.
- The proposed extensions to the building are well designed and complement the character and appearance of the listed building.

## DESCRIPTION OF PROPOSAL

Planning permission is sought to substantially extend the "Glass Pavilion" by constructing an extension to the rear of and an upper floor extension above the existing building. The net effect of the extensions is to double the ground floor area of the building (an increase from 270 to over 500 sq metres) and the addition of an upper floor of some 360 sq metres. The resulting building would have a floor area of some 870 sq. metres (over 3 times the floor area of the existing building).

The extended building would provide a large public dining area on the upper floor level as well as significantly enhanced kitchen areas and staff accommodation.

The design of the proposed extension seeks to mirror the existing structure, with the front elevation entirely glazed, but taking a concave form as opposed to the convex form of the ground floor. The side and rear elevations are in brick and render, again to match the existing building. Decorative wrought iron screens are also proposed, again to match similar screens on the existing building.

The applicants have indicated that the premises would operate on the basis that last orders would be taken at 21.00 hours with customers leaving the premises not later than 23.30 hours on weekdays and 22.30 hours on Sundays. They have also clarified that no takeaway facility would be provided.

The proposed extension would occupy the area of ground to the rear of the building currently used as a garden centre.

## SITE DESCRIPTION

The site is an extended former beach shelter now known as the Glass Pavilion restaurant. The original building is a Category C listed structure built in 1934 in art deco style with brick walls, a flat concrete roof and decorative wrought iron grilles.

To the west is a stone villa known as "Eastcott" and to the east is Jacques Night Club. The night club is currently closed and planning

permission has been granted for a residential development on that site subject to the conclusion of a Section 75 Agreement. To the north is land formerly occupied by a railway track (Dundee to Forfar line) and further to the north is the Dundee to Aberdeen railway track. Further to the north again, on the other side of the railway, is housing at Yewbank Avenue. To the south of the site, across the Esplanade, is open grassland and the beach.

## 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 53 relates to licensed and hot food premises and states that in general, outwith the District Centres, no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food is acceptable:

- a within 30 metres of existing and proposed housing if the outlet does not exceed 150 square metres gross floorspace (excluding cellar space) and;
- b within 45 metres if the 150 square metre figure is exceeded.

Policy 60 states that the alteration of a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character. Alterations will not be permitted where the works would diminish the

architectural integrity of the building or its historic interest.

## Scottish Planning Policies, Planning Advice Notes and Circulars

NPPG 18: Planning and the Historic Environment sets out the framework for dealing with applications relating to listed buildings. It makes particular reference to the "Memorandum of Guidance on Listed Buildings and Conservation Areas" which provides more detailed guidance on listed building proposals.

## Non Statutory Statements of Council Policy

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

## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

## SITE HISTORY

Planning permission and listed building consent were granted in 2004 to convert and extend the beach shelter to form a shop and café - applications 04/00462/COU and 04/00478/LBC refer.

In 2005 planning permission was granted to amend conditions on the original planning permission to permit, amongst other matters, extended hours of operation and a wider range of cooking operations - application 05/00456/FUL refers.

There is a current application for listed building consent for this development, the Report on which appears elsewhere in this Agenda - application 06/00924/LBC refers.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposal was advertised as a bad neighbour development and as contravening Policy 53 (Licensed and Hot Food Premises) of the adopted Local Plan. No objections were received although the Dundee Civic Trust wrote stating that they were concerned about the lack of detail on the proposed plans

and elevations as well as the inadequate arrangements for servicing.

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

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## CONSULTATIONS

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The Head of Environmental Health and Trading Standards has commented that it is important to ensure that noise from mechanical and electrical plant is controlled and proposes that a planning condition should be attached to cover this matter.

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## OBSERVATIONS

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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 53, there is a presumption against the proposed development because the building as extended is within 45 metres of the existing house at "Eastcott" and well as being within 45 metres of proposed apartments on the site of Jacques Nightclub.

In terms of Policy 60, the proposed extensions to the building are well designed and reflect the original art deco character of the listed building. There is no doubt that the original beach shelter now forms a very small portion of the extended building but its character is still evident and the design of the proposed extensions complements that of the listed building.

It is concluded from the foregoing that the proposal does not comply with Policy 53 of the adopted Local Plan.

## Other Material Considerations

The other material considerations to be taken into account are as follows:

(A) Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities, in considering applications that affect a listed building, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

This matter has already been considered in the assessment of the proposed development under Policy 60 of the adopted Local Plan and it was considered that the proposal would preserve the listed building.

(B) Licensed and Hot Food Premises (Policy 53)

Policy 53 contains a presumption against the provision of a restaurant of this size within 45 metres of dwellings. The policy does not specifically address a situation such as this where the existing restaurant use contravenes Policy 53. To date the restaurant use on the site has operated without detriment to residential amenity, albeit with restricted hours of operation and cooking facilities.

The significant increase to the size of the building coupled with the fact that the adjoining nightclub is likely to be redeveloped for housing alters the situation and increases the potential for amenity problems. However no objections to the proposed development were received and the Head of Environmental Health and Trading Standards does not envisage any problems subject to the imposition of a condition controlling noise from mechanical and electrical plant.

Taking into account the fact that the premises currently operate as a restaurant without amenity problems, that there will be no takeaway facility and that hours of operation will be restricted, it is considered that there is a justification for approving the proposed extensions to the building contrary to Policy 53 of the Local Plan.

(C) The Letter of Representation from Dundee Civic Trust

The Dundee Civic Trust has not objected to the application but have concerns about the detailing of the proposals and the servicing arrangements. Concerns about the

detailing appear to relate to the structural support for the building and this matter has been clarified by the submission of a section drawing indicating this aspect of the proposed development. In terms of servicing, since the building occupies almost the entire width of the site, there is no alternative to servicing from the Esplanade. However there does not appear to be any reason why servicing from the Esplanade should present any problems either in terms of amenity or traffic safety.

It is concluded from the foregoing that sufficient weight can be accorded to 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

The design of the proposed extension seeks to mirror the existing structure, with the front elevation entirely glazed, but taking a concave form as opposed to the convex form of the ground floor. The side and rear elevations are in brick and render, again to match the existing building. Decorative wrought iron screens are also proposed, again to match similar screens on the existing building.

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## CONCLUSION

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The proposed extensions to the building are well designed and complement the character and appearance of the listed building. Although the extended premises are within 45 metres of existing and proposed housing, it is considered that subject to the imposition of appropriate conditions there will not be an unacceptable impact on the amenities of nearby residents.

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## RECOMMENDATION

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It is recommended that consent 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 No takeaway facility shall be operated from the premises.
- 3 The premises shall only be open to the public between 0800 hours

- and 2330 hours on Mondays to Saturdays and 0900 hours to 2230 hours on Sundays.
- 4 Total noise from mechanical and electrical plants shall not exceed NR45 between 0700 and 2300 hours and NR35 between 2301 and 659 hours, as measured 1 meter external to existing and proposed housing to the east and west of the site.
  - 5 Details of the ventilation of the premises shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
  - 6 Samples of the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples.

## Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To ensure that the proposed development does not have an unacceptable impact on the amenities of nearby residents.
- 3 To ensure that the proposed development does not have an unacceptable impact on the amenities of nearby residents.
- 4 To ensure that the proposed development does not have an unacceptable impact on the amenities of nearby residents.
- 5 To ensure that the proposed development does not have an unacceptable impact on the amenities of nearby residents and that any equipment installed does not adversely affect the character or appearance of the listed building.
- 6 In order to safeguard the appearance of the statutorily listed building and to improve its architectural appearance.