

KEY INFORMATION

Ward Stobswell

Proposal

External seating area on footpath adjacent to public house

Address

10 Dundonald Street
Dundee
DD3 7PW

Applicant

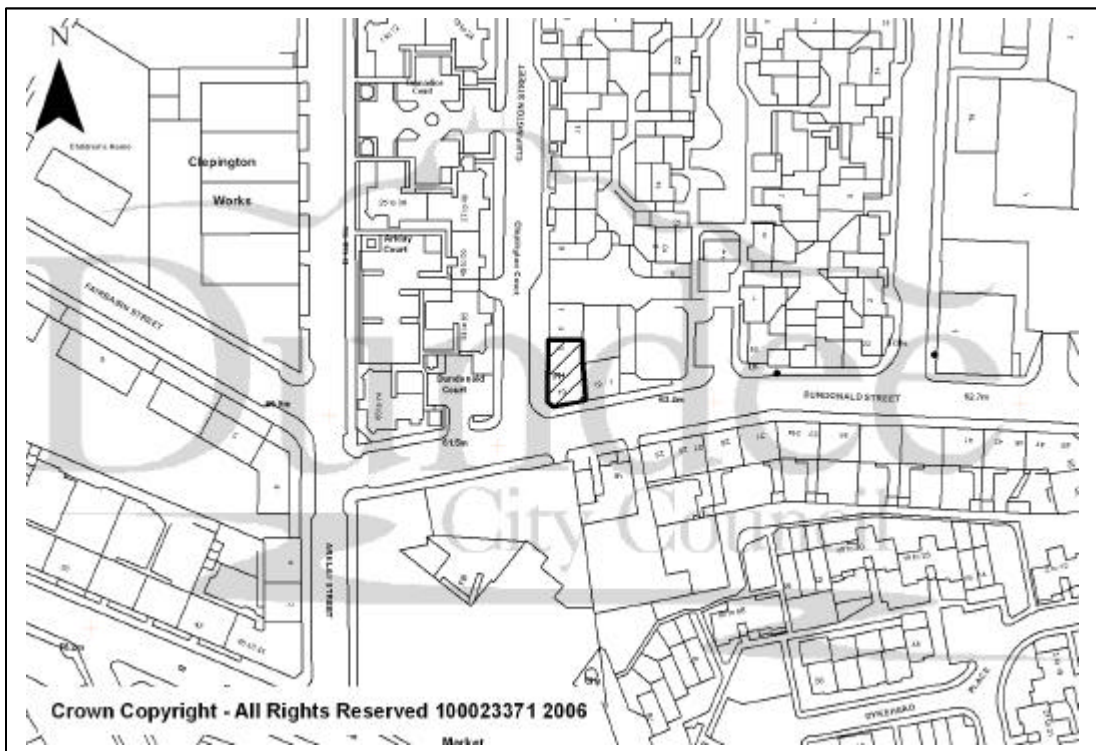
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Registered 13 Mar 2007

Case Officer S Johnson



Proposal for External Seating at Pub in Dundonald Street

The external seating area on the footpath adjacent to the public house is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal is contrary to Policies 1 and 53 of the Dundee Local Plan Review 2005 due to the proximity of a licensed premise to residential properties. The external seating area will encourage patrons to gather outside the premises and the resulting increase in noise will have an adverse effect on the amenities of neighbours. It is considered that the objections submitted support the recommendation of refusal. Therefore the application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for the change of use from a public footpath to a seated area adjacent to the public house at 10 Dundonald Street, Dundee.
- Five letters of objection from surrounding neighbours were received on the grounds of noise disturbance, increase in litter, increase in anti-social behaviour, during football season the path and surrounding area will become very busy and children will be playing amongst people who have been consuming alcohol.
- Policies 1 and 53 of the Dundee Local Plan Review 2005 are relevant to the determination of the application as these policies seek to protect the amenity of neighbouring residents.
- It is considered that the proposal does not comply with Policies 1 and 53 of the Dundee Local Plan Review 2005. It is considered that the views of the objectors are supported and there are no material considerations that would justify the approval of this application contrary to the provisions of the development plan.

DESCRIPTION OF PROPOSAL

Planning permission is sought for an external seating area on the footpath adjacent to the public house at 10 Dundonald Street, Dundee. The development would provide a seating area to the west of the public house. This would cover approximately 26.40sqm of the public footpath and would provide seating for approximately 24 covers. There are no other plans to alter the exterior of the building.

SITE DESCRIPTION

The proposed site is currently part of the public footpath along Clepington Street. The public house that is proposing this development site occupies a corner site located on the north side of Dundonald Street and the east side of Clepington Street. The public house occupies the ground floor corner unit of a four storey tenement block. The upper floors are flatted residential properties. To the west of the site are more flatted properties located in Dundonald Court and also along Clepington Street. The site is surrounded by residential properties. On-street parking is available in the immediate area.

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 1: Vibrant And Sustainable Communities. The City Council will promote vibrant communities, encouraging 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 affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Policy 53: Licensed And Hot Food Premises Outwith The City Centre. 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.

In the District Centres some relaxation of the above controls on distance from residential property may be appropriate. However, proposals for hot food takeaways other than those outlined below, will not be permitted in premises directly adjoining (i.e. directly above or to either side) residential property which is not within the control of the takeaway proprietor/operator.

Where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above requirements these may be permitted subject to:

- a the hours of operation being limited to between 7.00 am and 7.00 pm, and,
- b the hot food not requiring to be prepared on the premises and only requiring heating by means of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.

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.

SUSTAINABILITY ISSUES

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

SITE HISTORY

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

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the application was advertised as being potentially contrary to Policy 53 of the Dundee Local Plan Review 2005. Five letters of objection were received from surrounding neighbours. The grounds of objection are:

This proposal will result in an increase in noise.

There will be an increase in litter including bottles and glasses in surrounding gardens.

This proposal will result in an increase in anti-social behaviour including vandalism.

During football season the path and surrounding area will become very busy with large numbers of supporters consuming alcohol.

Children will be playing amongst people who have been consuming alcohol.

Copies of the objection letters are available for inspection in the Member's Lounge and the issues are discussed in the "Observations" section below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards has highlighted concerns about noise problems from the proposal. It is assumed that the proposed development is designed to accommodate those patrons of the premises who wish to smoke. Accordingly this will encourage people to congregate in a specific area which will result in an increased noise burden to the surrounding flats. If Members are minded to approve the application, a condition will be required to restrict noise levels within the application site. However, it is debatable whether the application of a condition can safeguard the amenity of adjacent residents and protect them from the potential effects of an increased noise climate around their property.

The Police Liaison Officer has advised that this proposal may raise concerns over possible public order issues, particularly during large football matches at either Dens or Tannadice football stadiums.

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 1 of the Dundee Local Plan Review 2005 seeks to protect the environmental quality enjoyed by local residents. It is considered that the proposal, to form an external seating area, will result in an unacceptable level of noise for nearby residents. Patrons will congregate during the opening hours of the public house and this will subsequently result in noise disturbance for adjacent residents. The site is surrounded by residential properties. There are flatted properties located directly above the public house and the proposed development site and

immediately to the east and west of the site. There are also flatted properties approximately 13metres from the site across Clepington Street to the west. It is considered that noise disturbance will be a potential problem for these residents. The Head of Environmental Health and Trading Standards supports this view. Therefore it is considered that the proposal does not comply with Policy 1.

Policy 53 of the Dundee Local Plan Review 2005 also seeks to protect the amenity of neighbouring residents and the amenity of the area. This policy does not allow the development of licensed premises within 30metres of existing and proposed housing if the outlet does not exceed 150sqm gross floorspace and within 45 metres if the 150sqm figure is exceeded. It is proposed to provide a seating area of 26.40sqmetres. Although the public house currently exists with close proximity to residential properties, it is considered that this proposed external seating area will have more of a detrimental impact on the residential amenity as it will encourage people to congregate in an area which is currently not used. It is the intention of the applicant that this area will be licensed so that customers can consume alcohol within this area. Consequently, it is considered this proposal is contrary to Policy 53.

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:

Objections

Five letters of objection were received from residents. The issues raised are discussed in detail below. The overriding theme in all these issues is the noise impact and the effect this will have on residential amenity.

Noise disturbance

The majority of objections to this application are concerned about an increase in noise. As previously discussed the site is surrounded by residential properties. There are flatted properties located directly above the public house and the proposed site and also immediately to the east and west of the site. There are also flatted properties approximately 13metres

from the site across Clepington Street to the west. It is considered that noise disturbance will be a potential problem for these residents as well. The site is currently a public footpath. This proposal will encourage people to congregate in this specific area during the public house opening hours which will result in an increase in noise levels to the detriment of the nearby residents. These objections are supported. It is considered that a condition to address these concerns would not be sufficient to support the application.

Litter

Some of the objectors are concerned that there will be an increase in litter including bottles and glasses in surrounding gardens. There is separate legislation to deal with any issues arising relating to litter.

Anti-social behaviour and Children

There are concerns that this development would result in an increase in anti-social behaviour including vandalism and that children will be playing amongst people who have been consuming alcohol. It is considered that the change of use from a public footpath to an outdoor seating area will have a detrimental impact on residential amenity. This proposal will encourage people to congregate in a specific area which it is considered will effect residential amenity. However, in terms of peoples' behaviour this is not a planning matter but a policing matter.

Busy Footpath

The objectors are concerned that during the football season the path and surrounding area will become very busy with large numbers of supporters consuming alcohol. It is considered that the footpath is of sufficient width to accommodate this proposal whilst allowing pedestrians to pass. These objections are not supported.

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.

Design

There are no plans to alter the existing building other than to provide a seating area to the west of the public house. Therefore it is considered that the plans are acceptable in terms of the overall design.

CONCLUSION

This proposal will encourage patrons to congregate which will result in increased noise to local residents which will have a detrimental impact on residential amenity. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy. The proposal is contrary to both Policy 1 of the Dundee Local Plan Review 2005 and Policy 53 due to the potential adverse impact on neighbouring residents on the grounds of noise disturbance. The views of the objectors regarding noise and the overall detrimental impact on residential amenity are supported in these circumstances. It is recommended that planning permission be REFUSED.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

Reasons

- 1 The proposed change of use from a public footpath to an outdoor seated area is considered to be contrary to Policy 1 "Vibrant and Sustainable Communities" and Policy 53 "Licensed and Hot Food Premises outwith the City Centre" of the Dundee Local Plan Review 2005 due to the proximity of a licensed premise to residential properties. The area will encourage patrons to gather and the resulting increase in noise will be detrimental to the environmental quality enjoyed by local residents. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to local plan policy.