

KEY INFORMATION

Ward West End

Proposal

Change of use from Post Office and Newsagent to Restaurant and Hot Food Takeaway

Address

123 Nethergate
Dundee
DD1 4DW

Applicant

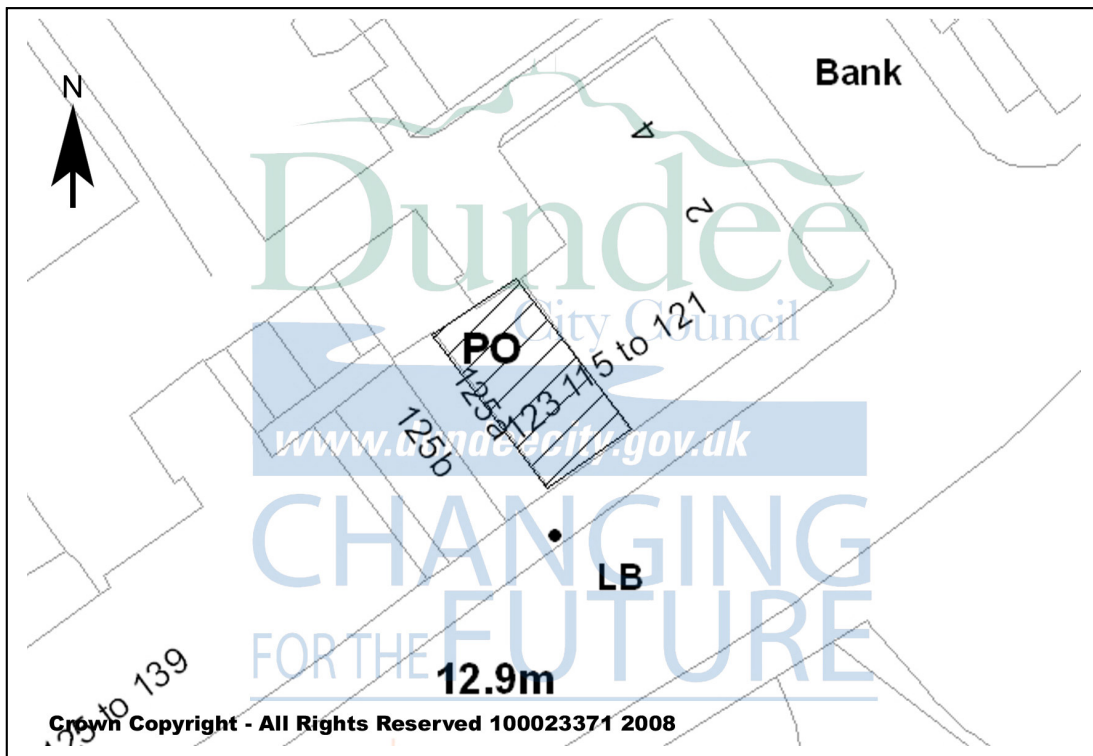
Hasan Akar
4 Castlepark Glade
Edinburgh
EH16 4GA

Agent

Ritchie Dagen and Allan
Suite 2
Stewarts House
Kingsway East
Dundee
DD4 7RE

Registered 25 Aug 2008

Case Officer E Jones



Proposed New Restaurant in Nethergate

A change of use from a Post Office to Restaurant and Hot Food Takeaway is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation.

RECOMMENDATION

The proposal represents the beneficial use of a small unit forming part of an important A Listed Building in the City Centre. The use is supported by the relevant policies and the objection is not supported. It is therefore recommended that planning permission be granted with conditions.

SUMMARY OF REPORT

- Planning permission is sought for change of use of the post office to a restaurant with hot food take away facilities. The unit is 66m² in total, will have 10 seats for customers and operate from 0800 hrs to 2000 hrs, 7 days a week. Ventilation is to be taken through the existing chimney and an internal bin store will be formed at the rear.
- This unit is in a Category A listed building on the north side of Nethergate, west of its junction with South Tay Street. There are flats on the upper floors and the building is currently undergoing repairs and refurbishment. The surrounding units include shops, a hot food take away and sandwich shops, Queens Hotel, the DCA and several public houses.
- Dundee Local Plan 2005 - Policy 17 - Cultural Quarter; Policy 59 - Alternative uses for Listed Buildings and Policy 61 - Development in Conservation Areas apply.
- One objection has been received on: impact on Listed Building and Conservation Area, environment, residential amenity, traffic and parking, litter, smell and ventilation and noise and privacy.
- As the proposal complies with the provisions of the development plan, is the type of use which one would expect to find in a City Centre, is small and has restricted operating hours, the objection is not supported.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of the post office to a restaurant with hot food take away facilities. The unit is small, 66m² in total and the layout indicates that it will have 10 seats for customers. The agent has confirmed that the proposed hours of operation are 0800 hrs to 2000 hrs, 7 days a week. Ventilation for the kitchen area is to be taken through the existing chimney. An internal bin store will be formed at the rear with the conversion of an existing window to a door. No alterations are proposed to the front elevation.



Policy 17 - Cultural Quarter.

Policy 59 - Alternative uses for Listed Buildings.

Policy 61 - Development in Conservation Areas.

SITE HISTORY

05/00846/FUL and 05/00848/LBC - Planning and listed building consent granted for a new shopfront.

08/00757/LBC - a listed building application has been submitted for the minor changes to the rear window to accommodate a door to the proposed bin store. It is currently subject to statutory consultation time scales.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a potential Bad Neighbour objector. One objection has been received on behalf of the owner of two of the flats above the site. The objection is on the following valid planning grounds; impact on Listed Building and Conservation Area, environment, residential amenity, traffic and parking, litter, smell and ventilation and noise and privacy. Several non valid grounds were also included in the objection. The planning objections are considered in the Observations below.

Members will already have had access to the objection letter.

SITE DESCRIPTION

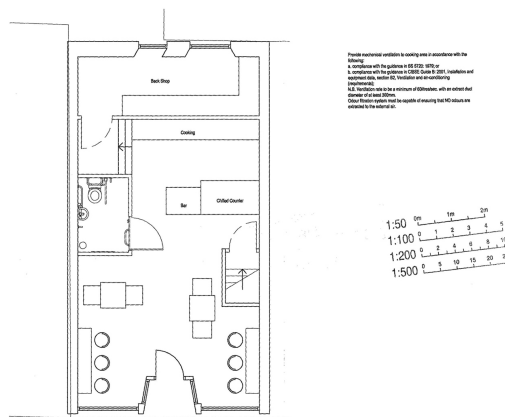
This is a shop unit in a Category A listed building within a terrace of tenemental properties on the north side of Nethergate, west of its junction with South Tay Street. It is currently occupied by a Post Office. There are flats on the upper floors, accessed from the rear. The building is currently undergoing repairs and refurbishment. There is a cobbled yard to the rear which serves both the properties fronting Nethergate and the buildings to the rear which are predominantly in residential use.

The surrounding commercial units include various shops, a hot food takeaway and sandwich shops selling ancillary hot food. Nearby are the Queens Hotel, the Clydesdale Bank, the DCA and several public houses. This is a very busy part of the City Centre with high levels of pedestrian and vehicular traffic over much of the day and well into the evening. Most of the tenements have residential properties on the upper levels.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

The Memorandum of Guidance on Listed Buildings and Conservation Areas is of relevance.



PROPOSED PLAN 75 08 08 /00631/COU

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 Chartered Planning Consultant
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 Shawfield House
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 01307 333333
 01307 333333
 www.projectsdesign.com

CLIENT
 Nethergate

PROJECT
 CHANGE OF USE
 NETHERGATE POST OFFICE

DRAWING
 PROPOSED PLAN AND
 FRONT ELEVATION

SCALE 1:50
DATE 08/08/08
NO. 000001
PROJECT NO. 000001
DATE 08/08/08

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.

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:

OBSERVATIONS

Statutory Requirements

In accordance with Section 25 of the Town and Country Planning (Scotland) Act 1997 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 Statutory Requirements under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

In accordance with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

In accordance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

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 17: Cultural Quarter - "Within the Cultural Quarter uses and developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged. Proposals which would extend and improve the area's representation of small scale independent and speciality retailers will also be encouraged. Proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance its visitor attraction."

It is considered that the provision of this small restaurant with associated

take away facilities which will operate from 0800 hrs to 2000 hrs, 7 days a week will contribute to the further development of the Cultural Quarter as required by Policy 17.

Related City Centre policies.

The site lies within the designated boundary of the City Centre but does not lie within the area covered by Policy 34 - City Centre Retail Core. Policy 34 would support this proposal. Policy 53 which controls licensed and hot food premises outwith the City Centre equally does not apply as the site lies within the City Centre boundary.

Policy 59: Alternative Uses For Listed Buildings - "Suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric must be undertaken carefully and sensitively and have minimum impact on the architectural and historic interest, character and setting of the building. Reference should be made to other policies in the Plan."

Policy 61: Development In Conservation Areas - "Within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features and the historic pattern of streets and spaces, as identified in the Conservation Area management plans to be advanced in the near future."

These two policies seek to protect the historic fabric of the City whilst allowing the use of buildings to be changed to maintain them in economic use and support their retention. This small unit forms part of a larger A listed building which contains the Morgan Tower and is itself surrounded by B listed buildings within one of the most important parts of the historic City Centre. The building has recently had a new shop front fitted which was grant aided and no changes to that shop front are proposed in this application. A minor change to the rear of the building will enable the bin to be secured out of sight. It is considered that the proposed change of use will maintain the building in a beneficial use of a type which is expected to be found in the City

Centre. It is concluded that the proposal complies with Policies 59 and 61.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Statutory requirements under Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. For the reasons given above, it is considered that the proposal meets these requirements.

Other Material Considerations

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

a Objection

The single objection is on the following valid planning grounds; impact on Listed Building and Conservation Area, environment, residential amenity, traffic and parking, litter, smell and ventilation and noise and privacy. The objection lists the grounds with no additional details.

As noted above, the proposal complies with policy, is the type of use which one would expect to find in such a location in a City Centre, there are a number of premises of different types and sizes in the area providing food both to customers who sit-in and to take away. The unit is small, only 66m² and has restricted operating hours of 0800 hrs to 2000 hrs, 7 days a week. It is concluded that the objection is not supported for the reasons given.

- b The Memorandum of Guidance on Listed Buildings and Conservation Areas states that planning authorities may have to relax policies in order to ensure that listed buildings can remain in a beneficial use in order to protect them and maintain their importance within Conservation Areas. This proposal complies with the general guidance in the Memorandum.

It is concluded from the foregoing that insufficient weight can be accorded to the objection such as to justify the refusal of planning permission contrary to the provisions of the development plan.

Design

As noted, there are no changes proposed to the Nethergate elevation and only a minor alteration to the rear elevation.

CONCLUSION

The proposal represents the beneficial use of a small building forming part of an important A Listed Building in the City Centre. The use is supported by the relevant policies and the objection is not supported. It is therefore recommended that planning permission be granted with conditions.

RECOMMENDATION

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 Prior to commencement of works to convert the building for the use hereby approved, full details of the proposed ventilation extract system to deal with cooking smells from the kitchen shall be submitted to the City Council for approval and if approved, the works shall only be carried out in compliance with such approved details.
- 3 Full details of the position and form of all proposed ducts, flues and vents other than the ventilation system dealt with by condition 2, shall be submitted prior to the commencement of development and if approved, the development shall be carried out only in accordance with such approved details.
- 4 Prior to the first use of the building hereby approved, the bin store shall be formed in accordance with the submitted details and shall thereafter be retained in such use.
- 5 The premises shall not be used solely as a hot food takeaway but shall combine a restaurant under Class 3 Food and Drink of the Use Classes (Scotland) Order 1997 as amended with a takeaway facility as detailed in the agent's letter of 24 September 2008.

- 6 The hours of opening shall be 0800 hours to 2000 hours, 7 days a week.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To protect the amenities of the occupants/owners of nearby adjacent properties in the locality.
- 3 In order to safeguard the appearance of the statutorily listed building and to improve its architectural appearance.
- 4 In the interests of the visual appearance of the Listed Building, the Conservation Area and the amenities of nearby neighbours
- 5 The application has been approved in accordance with Policy 17 - "Cultural Quarter" of the Dundee Local Plan Review 2005 which seeks to enhance facilities for visitors to the area.
- 6 For the avoidance of doubt, to define the permission in terms of the submitted details and in the interests of the amenities of the adjacent neighbours.