

KEY INFORMATION

Ward Strathmartine

Proposal

Retrospective change of use of part of car park to beer garden area including improvement works and new dining terrace

Address

The Downfield Hotel
530 Strathmartine Road
Dundee

Applicant

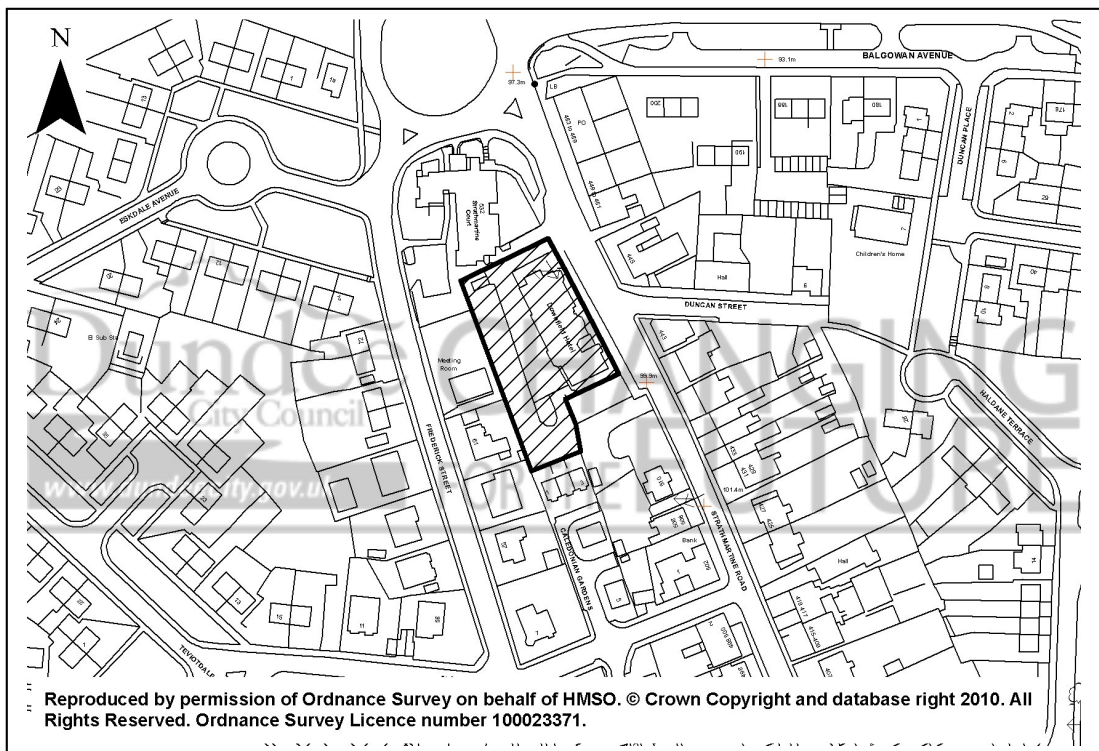
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Dean House
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Fife KY1 1PF

Registered 24 Sep 2010

Case Officer B Knox



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Proposed Beer Garden and Dining Terrace at the Downfield Hotel

Change of Use of part of car park to beer garden area and retrospective improvement works is **RECOMMENDED FOR REFUSAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

The application does not comply with Policy 1 or Policy 53 of the Dundee Local Plan Review 2005 and there are no material considerations to justify the departure. The views of the objectors are supported in this instance and the application is therefore recommended for **REFUSAL**.

SUMMARY OF REPORT

- The application seeks permission for an outdoor beer garden/terrace area to the west (rear) of the property.
- Policy 1 and Policy 53 of the Dundee Local Plan Review 2005 are considered to be relevant to the determination of the application.
- The proposals contravene 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.
- In total there have been 16 letters of objection received in relation to the proposal and 13 of these take the form of a pre printed standard letter.
- The proposal is considered to be likely to result in unacceptable levels of noise for the nearby residential properties to the detriment of their amenity. The application is therefore recommended for **REFUSAL**.

DESCRIPTION OF PROPOSAL

The application seeks permission for the change of use of part of the car park to a beer garden including improvement works to allow for a new beer garden area. It will extend an existing small terraced area and would measure approximately 9 metres in length by approximately 7 metres in width. There would be a new 1.8 metre high fence to the three sides and there would be a gate for escape purposes with a push bar.

In addition, a bin/furniture store is to be formed to the north of the proposed dining/beer garden area to be enclosed with a fence of approximately 1.8 metres in height.

Access to the beer garden area will be from the rear of the ground floor dining area through existing double doors. Indicative table plans show that there is capacity for approximately 13 tables.

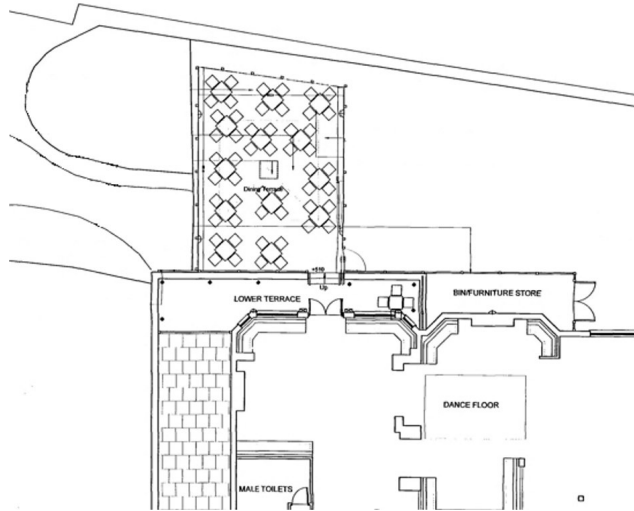
The existing small terrace immediately to the rear of the premises and the bin store has already been refurbished as per the plans but the larger beer garden area has not yet been commenced.

SITE DESCRIPTION

The site relates to an existing property known as the Downfield Hotel but which offers public house and function suite facilities only at this time. The building occupies a site measuring approximately 1,939m². It is a building that has been altered and extended in the past with two distinct types of design. The southmost part of the building appears to be the oldest part of the establishment and the northern section is a later addition. The original part of the building is of traditional design with two storeys and a natural slated roof. This part of the building also includes a ground floor conservatory style addition to the front elevation.

The part of the building to the north is of a contrasting design with a flat roof and dark stained timber cladding feature panels.

There is a car park to the rear of the property which takes access from the north of the hotel from Strathmartine Road.



There is a hall building directly to the rear of the property in addition to residential properties which are also to the rear of the application site but slightly offset and to the south of the site there are some terraced houses and a access driveway which slopes upwards to a dwelling further south down Strathmartine Road.

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:

- within 30 metres of existing and proposed housing if the outlet does not exceed 150m² gross floorspace (excluding cellar space) and;
- within 45 metres if the 150m² 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 (ie 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:

- the hours of operation being limited to between 7.00am and 7.00pm; and
- 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.



The distance to the dwelling closest to the rear of the establishment is approximately 28 metres. There is a significant volume of tree cover to the rear of the establishment but most of these are of a deciduous variety.

POLICY BACKGROUND

Dundee Local Plan Review 2005

Policy 1: Vibrant and Sustainable Communities - the City Council will promote vibrant communities,

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 have been several extensions and additions to the property dating from more than 30 years ago but the most relevant application to the current application is as below:

- a 04/00703/COU - change of use of part of car park to beer garden - approved on 25 October 2004 subject to time restriction conditions.

This has not been implemented on site.

- b 10/00523/FULL - retrospective erection of decking and fence to north elevation.

PUBLIC PARTICIPATION

The Statutory Neighbour Notification procedure was carried out and in total 16 letters of objection (including 13 standard pre-printed letters) were received within the statutory timescale and the following valid planning issues were raised:

- a Concerns with regards to the noise emanating from the establishment arising from customers late at night as a result of the development.
- b The development would take away part of the car park if not all of the car park. Car parking is a major issue in the area and should be used for parking purposes only in order to reduce the strain on the car parking at the front of the premises.

- c The extension will provide additional areas for those wishing to smoke and hence have doors of the building open leading to noise late in the evenings at weekends

Members will already have had access to the objection letters and it is intended to comment on them in the Observations Section of the report below.



sympathetically designed and positioned so as not to detract from the appearance of the existing building. It is to be surrounded by 1.8 metre high fencing to the north, east and west elevations. It is of a neat and tidy design and will not be viewable from the public elevations. It is considered that it shall not detract from the appearance of the main property and is discreet in its positioning and finishings.

The nearest residential property is to the rear of the site and will be situated approximately 20 metres away from the edge of the proposed area. There are views through the trees, particularly in winter months to the windows of properties at the rear. Those properties to the rear sit at a higher ground level than the application site. There is a steep embankment to the rear of the premises which delineates this boundary.

The application seeks permission for the beer garden/dining area on an unrestricted basis in an existing car parking area which is relatively quiet in character, backing onto residential properties. Although an indicative layout has been shown with a layout of tables and chairs it is considered that due to its large size (approximately 63m²) it has the potential to accommodate a large number of people. With this in mind it is considered that a beer garden type use in this location would be likely to result in an unacceptable level of noise in an otherwise quiet location in close proximity to rear garden areas and bedroom windows of dwellings.

In terms of the potential impact upon parking the proposed seating area shall use up an area of approximately 60m². The existing car park does not have marked parking bays but it is considered that it could comfortably accommodate around 11 cars. It is considered that the remaining car park area will be capable of accommodating up to 9 spaces for cars. This is considered to be acceptable and that the proposals would not give rise to any significant parking or traffic movement issues that would impact upon the level of amenity afforded to neighbouring properties in this regard.

Taking the above into account, the proposals therefore fail to comply with the requirements of Policy 1 (Vibrant

CONSULTATIONS

Environmental Health and Trading Standards have advised that there is the potential for the facility to cause noise disturbance to the nearby properties.

OBSERVATIONS

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless other material considerations indicate otherwise.

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 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005 is relevant to the outcome of this planning application.

It is the aim of Policy 1 to support development proposals that minimise the effect on the environmental quality afforded to neighbouring properties by virtue of design, layout, parking and traffic movement issues noise and smell.

In terms of design and layout, the proposed beer garden/terrace has been

and Sustainable Communities) of the Dundee Local Plan Review 2005.

In terms of Policy 53 of the Dundee Local Plan Review 2005 the site is located in breach of the prescribed distances to the nearest residential properties. The beer garden/terrace area is proposed to project approximately 9 metres which brings the premises to a distance of approximately 20 metres of the nearest dwelling. It is acknowledged that the existing site breaches the Policy distances and it is considered that in this location to the rear of the premises where residents are more likely to enjoy quiet surroundings, such an extension of use cannot be supported.

It is concluded from the foregoing that the proposals do not comply with Policy 53 in terms of distance to residential property and also fail to comply with the requirements of Policy 1 of the adopted Local Plan.

Material Considerations

Views of the Objectors

- a Concerns with regards to the noise emanating from the establishment arising from customers late at night.
- b The extension will provide additional areas for those wishing to smoke and hence have doors of the building open leading to noise late in the evenings at weekends.

The issue in relation to noise has been discussed above in relation to Policy 1 of the Dundee Local Plan Review 2005. It has been concluded that the proposed beer garden/dining area has the potential to impact upon the nearby residents, particularly since the existing ambient noise levels are low to the rear of the premises. It is considered that the provision of such an area would encourage patrons of the premises to congregate at this location and the likely noise that would result would be to the detriment of the amenities of the surrounding residential occupiers.

Furthermore, it is considered that even with a restriction on the hours that the area could be, due to the proposed location of the beer garden area and the large size as discussed above it would be likely to be detrimental to the

environmental qualities enjoyed by the residential occupiers.

The decked area to the north of the site approved at last Committee meeting (10/00499/FULL) is different from this in that it is considerably smaller in size and is located to the frontage where the ambient noise levels due to passing traffic are high.

- c The development would take away part of the car park if not all of the car park. Car parking is a major issue in the area and should be used for parking purposes only in order to reduce the strain on the car parking at the front of the premises.

The proposed seating area shall use up an area of approximately 60m². The existing car park does not have marked parking bays but it is considered that it could comfortably accommodate around 11 cars. It is considered that the remaining car park area will be capable of accommodating up to 9 spaces for cars. This is considered to be acceptable.

It is concluded from the foregoing that the material considerations weigh against the granting of planning permission contrary to the provisions of the Development Plan. It is therefore recommended that planning permission be refused.

Design

As discussed above the design of the proposals is considered to be in keeping with the main part of the building and will not detract from the surrounding area. The scale is in keeping with that of the main building and does not look out of place or appear overly prominent in its location at the rear of the property.

CONCLUSION

It is concluded from the foregoing that the application is not acceptable as it fails to comply with Policy 53 in terms of proximity to residential property and would be likely to result in detrimental effects upon neighbouring residential occupiers in terms of noise and disturbance, making it contrary to Policy 1 of the Dundee Local Plan Review 2005 and there are no material

considerations that would justify a decision contrary to this.

RECOMMENDATION

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

- 1 The application is not acceptable as it fails to comply with Policy 53 in terms of proximity to residential property and would be likely to result in detrimental effects upon neighbouring residential occupiers in terms of noise and disturbance, making it contrary to Policy 1 of the Dundee Local Plan Review 2005 and there are no material considerations that would justify a decision contrary to this.