

KEY INFORMATION**Ward** Maryfield**Proposal**

Part change of use from public house and night club to public house and adult entertainment venue

Address

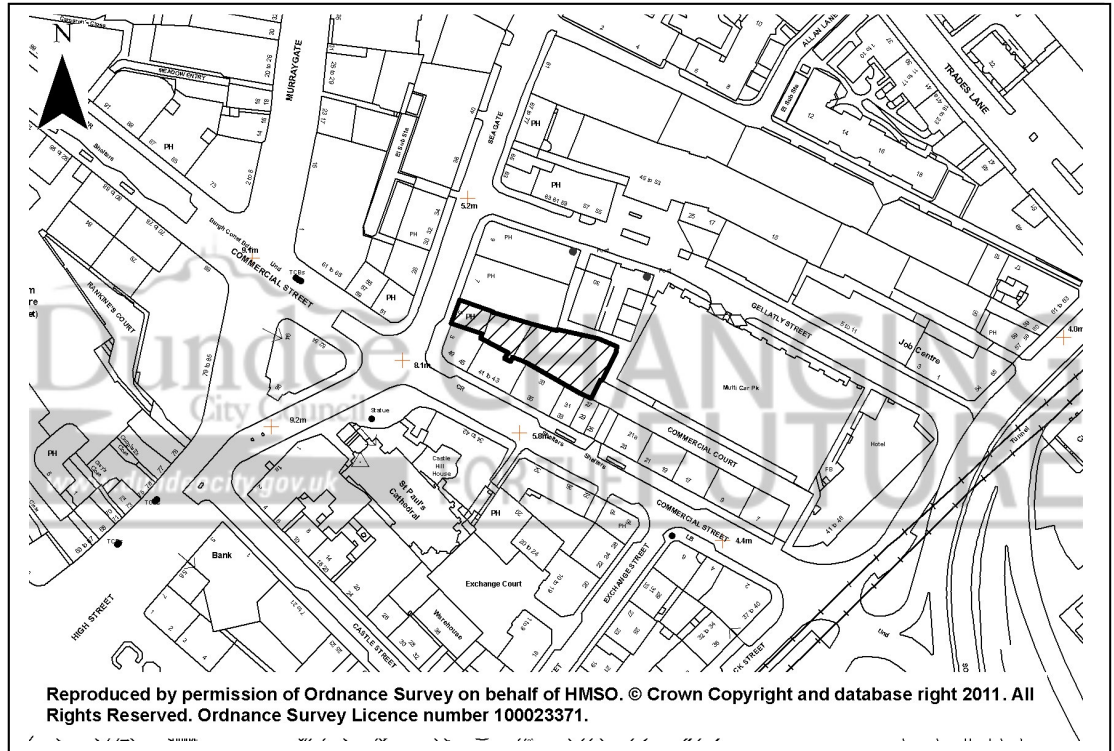
Public House
1-5 Seagate
Dundee

Applicant

Starts Sports Bar Ltd
31 Hawkhill
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Agent

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Registered 29 Sep 2011**Case Officer** Paul Macari

Provision of Adult Entertainment at Seagate Public House and Nightclub

The part change of use from public house and nightclub to public house and adult entertainment venue is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

The proposals comply with the relevant policies of the Development Plan. The concerns of the Objectors can be addressed by conditions to minimise the impact of the proposed adult entertainment venue in terms of noise disturbance and instances of anti-social behaviour. There are no material considerations that would justify refusal of planning permission. The application is therefore recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- This application seeks planning permission for to change the use of the existing public house and nightclub at 1-5 Seagate (All Stars) to a public house and adult entertainment venue.
- Policy 60 (Alterations to Listed Buildings) and Policy 61 (Development in Conservation Areas) of the Dundee Local Plan Review 2005 are relevant to the proposed development.
- 3 valid letters of objection have been received raising concerns relating to noise disturbance, anti-social behaviour and fear of crime.
- 4 invalid letters of objection have also been received.
- The concerns of the objectors are not supported.
- The proposals comply with the requirements of the Development Plan.

DESCRIPTION OF PROPOSAL

This application seeks planning permission to change the use of the existing public house and nightclub to a public house and adult entertainment venue at 1-5 Seagate, Dundee.

Planning permission is required for the proposed development as the adult entertainment element of this proposals is a sui-generis use which is materially different to the existing use of the premises as a nightclub which falls within the meaning of Class 11 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended.

The premises shall operate as a public house until the adult entertainment venue opens at 10.00pm. The bar at ground floor level shall operate as a bar for customers of the adult entertainment venue with the lower ground floor/basement level functioning as the operational element of the adult entertainment venue. The adult entertainment venue will consist of dancing, to musical accompaniment performed by both men and women, either on stage or in individual booths within the venue.

Amplified music shall be broadcast within the premises. The music will be controlled in order that it is inaudible within any adjoining or neighbouring residential dwelling.

The proposed adult entertainment venue shall operate between the hours of 10.00pm and 2.30am Thursdays, Fridays, Saturdays and Sundays.

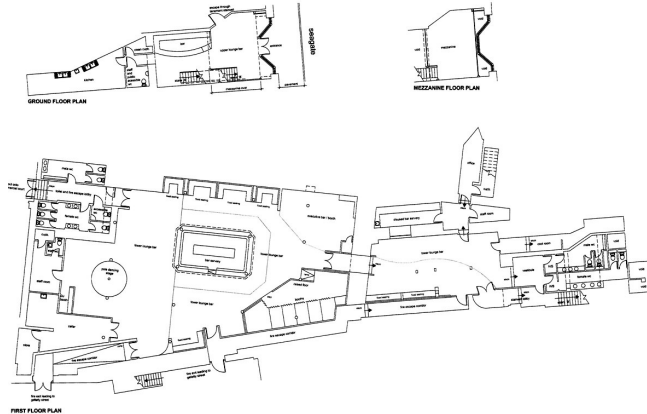
No external alterations to the building are proposed. Internally on the lower ground floor it is proposed to create a pole dancing area, raised floor areas, private booths and dancer welfare facilities.

In accordance with the Council's scheme of delegation, this application is being reported to the Development Management Committee at the request of an Elected Member.

SITE DESCRIPTION

The application site is located on the eastern side of Seagate and occupies the ground and lower ground floors of a terraced 4 storey tenement building. The premises adjoin similar buildings

to the north and south. The ground floors of adjoining buildings to the north and south are occupied by public houses and Blacks Outdoor shop. On the opposite side of Seagate (Western side) adjacent to the application site there are 2 public houses, a cafe,



betting shop and retail units.

There are residential properties on the upper floors of the building above the application site and above the commercial premises on the western side of Seagate.

The building housing the application site is of a traditional stone built



appearance with a pitched roof finished in slate. The windows of the upper floor flats are timber framed sliding sash in case in design. The existing public house at 1-5 Seagate has a modern frontage formed from large recessed timber framed windows with a centrally positioned timber door. There is a small stallriser beneath the windows that has been painted red. The window surrounds and fascia panel of the public house are also painted red.

There is a fascia sign in the form of individual letters displayed on the building.

The application site is located within the Central Area conservation area and the building is B listed.

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 60: Alterations To Listed Buildings - 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.

The City Council will provide specific supplementary guidance on the following: window and door alterations, advertisements, shopfronts, roller shutters, treatments to masonry and painting and use of materials.

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.

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

Planning application ref: 10/00612/FULL sought permission for a part change of use from public house to a night club at 1-5 Seagate, Dundee. This application was approved subject to conditions by the Development Management Committee in December 2010. The conditions imposed restrict the operating hours of the nightclub and require amplified music from within the premises to be inaudible in neighbouring residential premises.

PUBLIC PARTICIPATION

The Council has followed the statutory neighbour notification procedure outlined in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. In addition this application was advertised in the Dundee Evening Telegraph.

3 valid letters of objection were received from neighbouring residents concerned about noise disturbance, instances of anti-social behaviour and the fear of crime.

5 invalid letters of objection were also received raising concerns relating to the potential for illegal activities such as prostitution and people trafficking, sexual exploitation of women and crimes against women that are associated with adult entertainment venues (lap dancing clubs). These matters are not material planning considerations.

Members will already have access to the valid letters of objection and the points raised are considered in the "Observations" section of this Report below.

CONSULTATIONS

The Council's Head of Environmental Protection has requested that should the Committee be minded to grant planning permission, a condition is incorporated in to the decision which states, "Music and amplified vocals shall be so controlled as to be inaudible within any residential property."

OBSERVATIONS

Statutory Requirements

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 material considerations indicate otherwise.

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 60 (Alterations to Listed Buildings) is supportive of proposals that seek to preserve or enhance the architectural or historic character of listed buildings. The proposals do not involve any external alterations to the B listed building. The internal alterations proposed will affect existing modern partitions and fixtures only and therefore the proposals are considered to maintain the architectural and historic character of the building.

Policy 61 (Development in Conservation Areas) requires proposals to preserve or enhance the character of conservation areas. The

application site is located within the City Centre Conservation Area. The proposals do not involve any external or internal alterations to the B listed building and therefore are not considered to impact upon the character of the City Centre Conservation Area.

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

Statutory Duty

The proposals shall maintain the existing character and setting of the existing B listed building at 1-5 Seagate and the historic Seagate streetscape. This is because the proposed development shall not involve any external alterations to the existing building. In this instance the statutory duty outlined by Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended is discharged.

Other Material Considerations

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

Concerns of Objectors

3 valid letters of objection have been received from neighbouring residents concerned about noise disturbance, anti-social behaviour and the fear of crime.

It is acknowledged that there are many upper floor residential properties located in close proximity to the application site and indeed adjoining the premises at 1-5 Seagate. However, the existing public house and nightclub is licensed by the Council subject to a condition that requires all noise from within the premises to be inaudible from within adjoining and neighbouring residential properties. To date the Council has not received any complaints of noise disturbance from the existing public house and nightclub which is indicative that noise generated within the premises is inaudible within adjoining and neighbouring residential properties.

The Head of Environmental Protection has requested that a condition similar to those imposed on the premises license and planning permission ref: 10/00612/FULL granted for the public house and nightclub at 1-5 Seagate is incorporated into the grant of planning

permission should the Committee be minded to approve this application. It is considered that the inclusion of the recommended condition by the Head of Environmental Protection shall prevent instances of significant noise disturbance from within the proposed adult entertainment venue at 1-5 Seagate from occurring that would otherwise adversely affect the level of amenity afforded to neighbouring and adjoining residential properties.

Instances of noise disturbance and anti-social behaviour occurring outside the proposed adult entertainment venue or while customers queue to get into the premises are not considered to be so significant as to warrant refusal of planning permission. This is because Seagate is the main thoroughfare through the City Centre providing vehicle access as well as pedestrian access to the facilities located within the City Centre 24 hours-a-day. Therefore, at all times of the day and night there are people and vehicles on Seagate. There are existing licensed premises operating until 2.30am on Seagate with customers generating instances of noise disturbance and anti-social behaviour as they leave such premises or make use of the hot food takeaways or wait on transport at the taxi ranks within the vicinity of the application site. Therefore, it is considered that the proposed adult entertainment venue shall not exacerbate the effects of existing levels of late night noise disturbance and anti-social behaviour.

As there is a taxi rank located outside the premises at 1-5 Seagate there are already instances of late night noise disturbance from vehicle movements and car doors closing. The proposed adult entertainment venue with operating hours until 0230am is not considered to significantly increase the existing levels of noise disturbance and anti-social behaviour that occur within the vicinity of the application site given the proximity of other licensed premises to the application site and that the premises are located on the main thoroughfare through the City Centre.

The concerns of objectors relating to the fear of crime in the vicinity of the application site as a direct result of the proposed development has the potential to adversely affect the character of this area of the City Centre as a place to live and work. However, as there is not a direct link

between the proposed development and criminal activity this is not a material planning consideration. Instances of criminal activity are a matter for Tayside Police to investigate.

In this particular instance the concerns of the objectors relating to fear of crime, noise disturbance and anti-social behaviour are not supported.

Invalid Objections

Many of the letters of objection received both valid and invalid raise moral opinions which reflect upon the "types" of people that will frequent the proposed adult entertainment venue, the activities that will take place within the adult entertainment venue and the contribution that adult entertainment venues make to the sexual exploitation of women, prostitution, and how this contributes to the sexual objectification of women by men.

Current planning legislation does not make provision for the inclusion of objections to planning applications that are not directly related to the development proposed and do not raise material planning issues. Therefore the moral opinions expressed by objectors are not considered to be valid objections to this planning application.

It is concluded from the foregoing that insufficient weight can be accorded to the material considerations above to justify refusal of planning permission. It is therefore recommended that planning permission be granted with conditions.

Design

No external alterations to the B listed building that would adversely affect the appearance of the Seagate streetscape or surrounding conservation area are proposed.

CONCLUSION

The proposals comply with the relevant policies of the Development Plan. The concerns of the Objectors can be addressed by conditions to minimise the impact of the proposed adult entertainment venue in terms of noise disturbance and instances of anti-social behaviour. There are no material considerations that would justify refusal of planning permission. It is therefore recommended that

planning permission is approved subject to conditions.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:

- 1 Music and amplified vocals from within the proposed adult entertainment venue hereby approved shall be so controlled as to be inaudible within any residential property.
- 2 The proposed adult entertainment venue hereby approved shall operate between the hours of 12.00am and 2.30pm on Thursdays, Fridays, Saturdays and Sundays only.

Reasons

- 1 In the interests of safeguarding residential amenity.
- 2 In the interests of protecting the level of environmental quality afforded to the City Centre as a place to live, work and partake in leisure activities.