

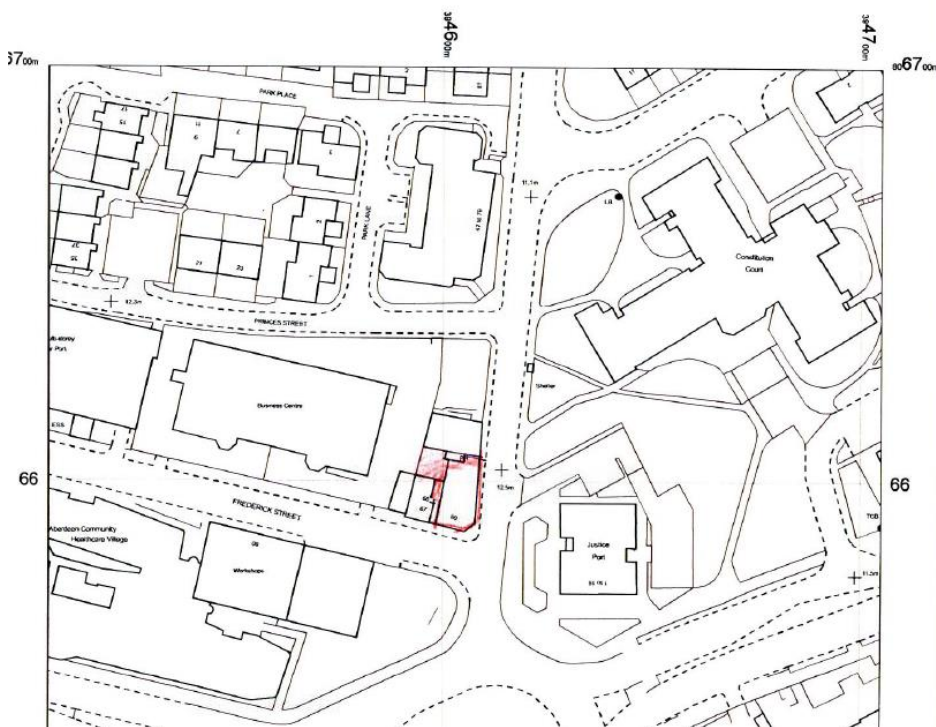


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date: 24 May 2018**

<b>Site Address:</b>	Saltoun Arms, 69 Frederick Street, Aberdeen, AB24 5HY
<b>Application Description:</b>	Change of use of garden ground area to outdoor bar seating area to rear (retrospective)
<b>Application Reference:</b>	180518/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	2 April 2018
<b>Applicant:</b>	Jevgeni Latosen
<b>Ward:</b>	George Street/Harbour
<b>Community Council</b>	Castlehill And Pittodrie
<b>Case Officer:</b>	Robert Forbes



## RECOMMENDATION

Approve Conditionally

## APPLICATION BACKGROUND

### Site Description

Land at the rear of a city centre tenement building of 19th century origin. The site was previously disused, having historically been used by the flats above as communal garden ground / outbuildings, but has been incorporated into the curtilage of the pub which occupies part of the ground floor. It is fully enclosed by high walls, not visible from the street and is accessed via doors in the rear wall of the pub. It is overlooked by the flats on upper floors. Other adjacent uses include a hairdressers, NHS facility, business premises and a hot food take away.

### Relevant Planning History

Application Number	Proposal	Decision Date
031703	Conversion of pub to 2 flats	29.10.03

The above application was approved subject to conditions but not implemented and is thus no longer valid.

## APPLICATION DESCRIPTION

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### Description of Proposal

Use of the external area as a beer garden associated with the pub. The area extends to 36 square metres. It has been surfaced with timber decking and has some fixed seating. It is accessed via doors which have been formed in the rear wall of the pub. The beer garden has level / step free access from within the public house in accordance with disability access requirements. Emergency exit is via the communal tenement stairwell.

### Supporting Documents

All drawings, the location plan, application form and supporting documents listed below can be viewed on the Council's website at:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P6KFFJBZ01U00>

The following documents have been submitted in support of the application –

- Supporting Statement . This states that the work has both warrant and licensing approval. The proposal obviates the need for smokers to stand on the pavement outside the entrance to the premises.

### Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because of objection by the Community Council and an officer recommendation of approval.

## CONSULTATIONS

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**ACC - Environmental Health** – No objection, subject to conditions restricting hours of use and prohibiting amplified music in the external area.

**Community Council** - Object on the basis of proximity of the premises to a school, playpark and homes and public health concerns (e.g. encouragement of drinking alcohol). Recognise that "Food and Drink" is an identified theme of the Council's economic strategy but do not consider that expansion of the outdoor area is necessary for the business to thrive.

## REPRESENTATIONS

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None

## **MATERIAL CONSIDERATIONS**

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### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

### **National Planning Policy and Guidance**

SPP encourages enhancement of the vitality and viability of existing centres.

### **Aberdeen City and Shire Strategic Development Plan (ACSSDP)**

A key aim is to grow and diversify the regional economy.

### **Aberdeen Local Development Plan (2017)**

NC1: City Centre Development – Regional Centre

H2: Mixed Use Areas

T5: Noise

### **Supplementary Guidance and Technical Advice Notes**

- Noise
- Harmony of Uses

## **EVALUATION**

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### **Principle of Development**

The proposal relates to the extension of an existing authorised city centre use. Expansion of the public house business accords with the objective of growing and diversifying the regional economy, as set out in ACSSDP. It would also enhance the vitality and viability of the city centre in accordance with the objectives of SPP and local plan policy NC1.

### **Residential Amenity Impact**

In terms of policy H2, there is a need to avoid undue conflict with adjacent uses and amenity. As the public house already exists, and has done for many years, the residential amenity of adjacent flats (i.e. those directly above) is reflective of this. However, the use of the external courtyard as an associated 'beer garden' has the potential to additionally impact on the amenity of those residents (e.g. due to noise /activity, particularly late at night), however, it is considered that this can be addressed by imposition of a condition restricting the hours of its use and ensuring that the external door to the beer garden are self closing and otherwise kept shut when it is not in use, in order to prevent access to that area or the escape of noise from within the pub. Other adjacent uses would not be significantly adversely impacted by the proposal. Although no noise impact assessment has been submitted, this has not been requested by the Council's environmental health officers. It is noted that the bar is currently used on occasion for Karaoke, which sees amplified music within the premises, and it would not be legitimate to restrict this as an incidental part of its authorised historic use. The controls related to the door should sufficiently mitigate such a risk. Otherwise potential concerns related to amplified music within the building affecting residents are more appropriately addressed through the Council's powers to investigate noise nuisance and do not therefore require to be addressed by planning condition, other than relating to use of the external area and access doors. There would thus be no undue conflict with policies H2, T5 and related guidance.

### **Matters Raised in Objection**

The former Frederick St primary school to the immediate west is in use as a business centre. Otherwise the beer garden is situated to the rear of the tenement building and within an enclosed courtyard, thus not intervisible with the Hanover Street primary school (some 70m to the south-east and across the four lane Beach Boulevard) or any playparks, so that there would be no potential for children outwith the site to observe activities therein. In any event concerns relating to children observing consumption of alcohol and public health in general (e.g. regulation of consumption of alcohol) are not competent matters to be addressed by the land-use planning system. There is no evidence that the proposal would result in a negative economic impact or conflict with the Council's economic strategy to grow and diversify the regional economy. Rather, the proposal supports the development of a local business.

### **Equalities Impact Assessment**

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics. In coming to this assessment the Planning Authority has had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The beer garden has level / step free access from within the public house in accordance with disability access requirements.

### **RECOMMENDATION**

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Approve Conditionally

### **REASON FOR RECOMMENDATION**

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The proposal is directly related to the existing use of the premises as a public house. Expansion of the business accords with the objective of growing and diversifying the regional economy as set out in Aberdeen City and Shire Strategic Development Plan. It would enhance the vitality and viability of the city centre in accordance with the objectives of Scottish Planning Policy and local plan policy NC1 (City Centre Development – Regional Centre). Subject to imposition of a condition restricting the operating hours of the external area, there would be no insurmountable adverse impact on existing residential amenity enjoyed by the flats immediately above the premises. There would be no undue conflict with policies H2 (Mixed Use Areas), T5 (Noise) and related guidance.

### **CONDITIONS**

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01. The external area hereby approved shall not be used between the hours of 10pm and 10 am the following day. The external area shall not be used unless the external access doors to it, as formed in the rear wall of the premises, are of a self-closing type, so as not to remain open other than when being used for access or egress purposes, and otherwise kept locked shut when the beer garden is not in use. – In order to ensure that the residential amenity of existing residents is not adversely impacted late at night and in order to prevent escape of noise in order to comply with the aspirations of policy H2 (Mixed Use Areas) within the Adopted Local Plan and relevant supplementary guidance regarding Harmony of Uses.
02. The external area hereby approved shall not be used for amplified music / performances. – In order to protect the residential amenity of adjacent occupants.

### **ADVISORY NOTES FOR APPLICANT**

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The applicant is advised of the need for a premises license in relation to use of the external area.