

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

18 OCTOBER 2001

PLANNING APPLICATION – O'HARAS BAR, 41 WEST HIGH STREET, FORFAR

REPORT BY THE DIRECTOR OF PLANNING AND TRANSPORT

<p>Abstract: This report deals with planning application No. 01/00656/LBC and 01/00655/ADV for the illumination of existing signs for Stewart Baxter at O'Haras Bar, 41 West High Street, Forfar. These applications are recommended for refusal.</p>
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1 INTRODUCTION

- 1.1 An application has been submitted for listed building and advertisement consent for the illumination of existing signs at O'Haras Bar, 41 West High Street, Forfar.
- 1.2 This property is a Category B listed building and is located within a very prominent corner position in the conservation area. To the south side of the property is the very attractive residential area around Little Causeway, whilst the north frontage and east side form the start of the main shopping and commercial area of the town centre. The property is of a traditional form with a stone and slate construction.
- 1.3 There are currently two sign written fascia boards erected at the property with each being illuminated by a small simple downlight. The proposal is to replace these downlights with a swan neck brass cowl.

2 APPLICANT'S CASE

- 2.1 The applicant has confirmed that he considers the style of lighting is appropriate and as there are others in the town he does not wish to amend the proposal.

3 CONSULTATIONS

- 3.1 No adverse comments have been received from statutory consultees.

4 LETTERS OF REPRESENTATION

- 4.1 No letters of representation have been received in respect of this proposal.

5 PLANNING CONSIDERATIONS

- 5.1 In this case the determining issue for the Committee is whether the proposal:-
 - complies with national statutes, guidelines and advice;
 - complies with Structure and Local Plan policies;
 - has an adverse impact on amenity.

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- 5.2 Section 14(2) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant listed building consent for works special regard shall be made to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.3 Section 64(1) of the above Act requires that in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Although this requirement relates to planning applications it is necessary to bear this in mind in respect of the amenity considerations of the advertisement consent application.
- 5.4 Section 4(2)(a) of the Town and Country Planning (Control of Advertisements (Scotland)) Regulations 1984 requires that the control of advertisements shall be exercised in the interest of amenity and public safety.
- 5.5 In respect of amenity the suitability shall be determined in light of the general characteristics of the locality including the presence of any feature of historic, architectural, cultural or similar interest. When assessing the general characteristics of the locality any advertisement being displayed can be disregarded. There is no public safety issue in this case.
- 5.6 The Memorandum of Guidance on Listed Building and Conservation Areas contains various guidelines and advice in respect of advertisements and alterations to listed buildings and buildings within conservation areas. The guidance states that “in most situations signs should not be illuminated, but where there is a definite need for lighting, illumination should be achieved unobtrusively. A large number of lighting fittings mounted above and projecting forward of the sign will seldom be acceptable.”
- 5.7 The Tayside Structure Plan 1993 does not contain specific policies in relation to this application but does include a general Policy 13 : Development Affecting Listed Buildings and their Setting or Conservation Areas should have full regard to the need to retain important architectural features or historic interest and where possible, secure improvements to the built environment.
- 5.8 The Finalised Angus Local Plan contains:-
- Policy ENV31 states:-
- “Angus Council will assess all development proposals which affect the built heritage in the context of the Memorandum of Guidance on Listed Buildings and Conservation Areas.”
- Policy ENV42 states:-
- “Change of use of, or alterations and extensions to a Listed Building will only be permitted where there is no detrimental effect to either the fabric, character or appearance of the building or its setting.”

Policy ENV46 states:-

“Proposals for new or replacement signs and fascias within Conservation Areas will only be permitted where they are of a design appropriate to the character and appearance of the Conservation Area and reflect the following principles:-

Those that are appropriate in this case are:-

(a) Fascia Illumination:-

- (i) will only be permitted on properties regularly open outwith normal hours, viz. 07.30 - 18.30;
- (ii) the source of illumination must be concealed and form an integral part of the fascia;
- (iii) neon tubing; cut out box fascias or overhead lanterns will not be acceptable.

(b) General:-

- (i) only one source of illuminated signing per frontage, (i.e. fascia, or projecting) will be allowed;
- (ii) floodlighting of buildings rather than signing will be considered on merit, giving due consideration to the quality of the building; use of premises (late opening may be a justification); and method of illumination.”

- 5.9 The Council’s Advice Note 2 : Shopfronts and Signs in Conservation Areas expands on this policy and states quite clearly that in respect of listed buildings that open late only trough lighting (fluorescent tubes hidden by a pelmet) carefully sited and taking advantage of architectural detailing is permissible. “A series of lamps projecting from above the fascia” as sought for O’Haras, is not even acceptable on non-listed buildings that are open late.
- 5.10 These applications should be looked at in light of the guidance from Historic Scotland, the criteria laid down in Policy ENV46 and Advice Note 2. It is necessary to assess whether the proposal is in keeping with and sympathetic to the character of the listed building and whether the proposal preserves or enhances the character or appearance of the conservation area. I am of the opinion that the style of illumination proposed would be obtrusive on this property, by their nature brass overhead cowl stand out and draw attention to themselves and would therefore be detrimental to the character of the listed building and be out of keeping with the appearance and character of the street scene in the part of the conservation area. It is correct that a number of properties do have this type of illumination but these date back many years and it was the visual experience gained from having these that has led to them being no longer allowed on new installations.
- 5.11 In conclusion, there is no opposition to basic illumination at O’Haras but it needs a more subtle approach in line with national and local policies.

6 HUMAN RIGHTS IMPLICATIONS

6.1 The recommendation in this report for refusal of this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the present recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

7 RECOMMENDATION

- 7.1 It is recommended that the application be refused.
1. That the proposed method of illumination would be out of keeping with and unsympathetic to the character of the listed building.
 2. That the proposed method of illumination would constitute a visually intrusive element in the street scene and detract from the character and appearance of this part of the conservation area.
 3. That the proposal is contrary to Policies ENV31, ENV42, and ENV46 of the Angus Local Plan and the Council's Advice Note 2.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/AS/IAL
10 October 2001

Alex Anderson
Director of Planning and Transport