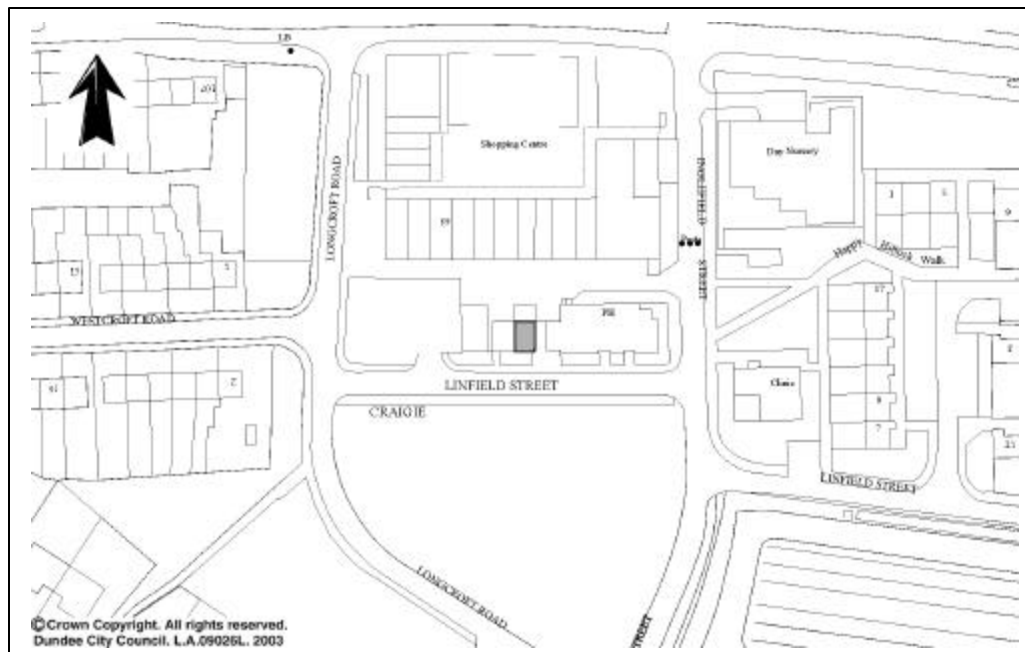


**KEY INFORMATION****Ward** Pitkerro**Proposal**

Change of use from vacant unit to amusement arcade

**Address**Unit 18B Happyhillock  
Shopping Centre  
Linfield Street  
Dundee  
DD4 8LJ**Applicant**Paul Doig  
7 The Esplanade  
Broughty Ferry  
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DD5 2EL**Registered** 16 Oct 2003**Case Officer** C Walker

# Amusement Arcade Proposed in Happyhillock Shopping Centre

A change of use from a vacant unit to an amusement arcade is **RECOMMENDED FOR APPROVAL SUBJECT to conditions**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development accords with most of the policies of the adopted Plan, with the policies in the Finalised Plan and Government Guidance on amusement arcades. It will not result in an adverse impact on residential amenity and is recommended for approval.

**SUMMARY OF REPORT**

- Planning permission is sought to change the use of these small vacant premises to an amusement arcade. No gambling machines are proposed.
- Other than the applicants own house, the nearest house to the site is some 70 metres distant.
- Policy S26 of the adopted Local Plan states that proposals for amusement arcades will only be acceptable if they are located in non core retailing areas in the City Centre and District Centres and do not immediately adjoin residential property and are not in close proximity to another amusement arcade or to school buildings, churches, hospitals and hotels.
- A petition of objection containing 80 signatures was received stating concerns about noise and disturbance and contravention of the Local Plan. The applicant has submitted a petition containing 274 signatures supporting an amusement arcade at this location.
- Although the proposed development does not comply with one of the strands of Policy S26 of the adopted Local Plan, it fully accords with the other policies of the adopted Plan, the relevant policies in the Finalised Plan and Government Guidance on amusement arcades. In addition it is considered that the site is sufficiently distant from houses to ensure that it will not result in an adverse impact on residential amenity.

## DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of these vacant premises to an amusement arcade. The layout plans indicate 10 gaming machines along the walls of the unit and a football table in the centre.

The applicant has indicated that the premises will operate only with amusement machines with no gambling machines, that the proposed hours of operation will be 12.00 to 13.30 and 17.30 to 22.00 hours on weekdays and 10.00 to 22.00 hours on Saturdays and Sundays and that the facility will provide entertainment for young people in the area.

No elevational alterations are proposed other than the erection of a sign on the existing shopfront.

## SITE DESCRIPTION

The site comprises a recently refurbished single storey shop unit, one of 2 created following the subdivision of a former bookies office. The unit has an internal floor area of some 35 sq. metres. The adjoining unit is a bakers shop. To the east of these units is a ground floor takeaway and a house above it. The applicant who lives in the house above the takeaway owns all these properties.

To the east of the premises is a vacant public house, immediately to the north is an electricity substation and then the rear of the Happyhillock Shopping Centre. To the south is an area of public open space.

Other than the applicants own house, the nearest house to the site (as the crow flies) are over 80 metres to the east at 7-17 Linfield Street, some 70 metres to the west at Longcroft Road and some 70 metres to the south at Longcroft Road.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

### Dundee Local Plan 1998

The following policies are of relevance:

**H1 Existing Residential Areas:** Within areas where residential use predominates, developments will be permitted where they do not adversely affect the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell and they are in accordance with the policies and proposals of the Plan.

**S26 Amusement Arcades:** Proposals for amusement arcades will only be acceptable if they are located in non core retailing areas in the City Centre and District Centres and do not immediately adjoin residential property and are not in close proximity to another amusement arcade or to school buildings, churches, hospitals and hotels.



### Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application.

### Finalised Dundee Local Plan Review

The following policies are of relevance:

**Policy 1 Vibrant and Sustainable Communities** seeks 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 54 Amusement Centres and Amusement Arcades** states that this

type of development will only be acceptable if:

- a they do not immediately adjoin residential property; and
- b they are of an appropriate design; and
- c they are not in close proximity to another amusement arcade or to school buildings, churches hospitals and hotels;
- d they incorporate suitable safeguards to minimise any adverse impact on local amenity and , in particular, to avoid any noise nuisance.

### Scottish Planning Policies, Planning Advice Notes and Circulars

**NPPG8** gives advice on amusement centres and arcades which is broadly similar to the policies in the Adopted and Finalised Local Plans. It states, amongst other matters, that they are unlikely to be acceptable close to housing or near schools.

### Non Statutory Statements of Council Policy

There are no non statutory Council policies relevant to the determination of this application.

## LOCAL AGENDA 21

As the proposed development involves the reuse of an existing building in an accessible location, it is considered to be sustainable.

## SITE HISTORY

Planning permission was granted to subdivide the former bookies office to 2 shop units in January 2003 - application ref. no 02/00807/FUL refers.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposal was advertised as a bad neighbour development and as contravening Policy S26 of the adopted Local Plan. A petition of objection containing 80 signatures of local residents was received stating concerns about noise and disturbance, particularly due to its proximity to sheltered housing. It adds

that the Local Plan requires this type of use to be restricted to the city centre and district commercial areas.

In addition the applicant has submitted a petition containing 274 signatures supporting an amusement arcade at this location.

Copies of these petitions are available for inspection in the Members Lounges and the issues raised are considered in the Observations section of this Report.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards has written to state that normally it would be a requirement that noise from the proposed development should be inaudible from the nearest residential property. However in this case he notes that the applicant occupies the nearest dwelling and therefore this condition could be substituted with a condition requiring the arcade to be operated solely by the applicant.

## OBSERVATIONS

In accordance with the provisions of Section 25 of the Act 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 Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

Policy S26 of the adopted Local Plan sets out criteria for the siting of amusement arcades. The preamble to the policy states that they are bad neighbours in residential areas and to churches, hospitals and schools. It suggests that taking these constraints into account the only practical locations for amusement arcades apart from the Stack Leisure Park are secondary retailing areas in the city centre and district centres.

Policy 26 then sets out 3 criteria, all of which must be complied with. The proposal does not comply with (A)

because Happyhillock Shopping Centre is not a designated District Centre in the Plan. It complies with (B) and (C) because it does not immediately adjoin residential property and is not close to another amusement arcade or to school buildings, churches, hospitals and hotels.

Since it fails to comply with criterion (A) the proposed development has been advertised as contravening Policy S26 of the Plan.

Policy H1 seeks to ensure that commercial developments in residential areas do not adversely impact on amenity. Taking into account the fact that the nearest house (other than the applicants own dwelling) is 70 metres distant and that there is a hot food takeaway and public house on either side of the site, it is not considered that any noise associated with the development would be so injurious to amenity as to contravene Policy H1. The proposal does not raise any issues relating to design, layout, parking, traffic movement or smell.

It is concluded from the foregoing that the proposal does not comply with Policy S26(A) of the adopted Local Plan.

### Other Material Considerations

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

- a The Finalised Dundee Local Plan Review.
- b NPPG 8
- c The petitions objecting to and supporting the proposal.

The wording of Policy 1 of the adopted Local Plan is similar to that of Policy H1 of the adopted Local Plan and it is considered that the proposal complies with this policy for the same reasons as it complies with Policy H1.

Policy 54 relates to amusement centres and arcades. The preamble to the policy sets out similar amenity concerns as Policy S26 of the adopted Local Plan but the wording of the policy does not restrict amusement arcades to the city centre and district centres. Rather there is just a requirement that they should not immediately adjoin residential property. In these circumstances it is

considered that the proposed development complies with Policy 54 of the Finalised Local Plan.

The section in NPPG8 devoted to amusement arcades is written in similar terms to the Councils development plan policies and suggests that these uses are best sited in secondary shopping areas and areas of mixed commercial development. It adds that they should not be close to housing and not immediately below flatted residential property. It is considered that the proposed development is in a mixed commercial area and sufficiently distant from housing such as to comply with the terms of NPPG8.

The petition of objection is concerned about noise and disturbance. Noise generated from within the premises is unlikely to be a problem given the considerable distance to the nearest houses. Although not specifically referred to, it may be that objectors fear noise and disturbance from people entering or leaving the premises. Any problems of this nature are a police matter but again given the distance from the nearest houses, the proposed closing time of 10pm, the fact that the applicant lives nearby and that there are late night uses on either side of the site (a takeaway and a public house which is currently closed) it is considered that any noise or disturbance will not be excessive. Planning conditions can ensure that the proposed hours of operation are adhered to. In addition it is considered appropriate to attach a planning condition limiting the duration of the consent to 2 years to allow the situation at the site to be monitored with regard to any potential noise and disturbance.

The petition in support of the application has been signed by many local residents which would suggest that the fear of disturbance is not so widespread in the neighbourhood.

Taking all the above considerations into account it is clear that the development accords with the policies of the Finalised Local Plan and with Government Guidance on amusement arcades. In addition the local community is split over whether the proposed development will be an asset to or detract from the area. It is considered that in these circumstances there is a justification for departing

from the strict wording of Policy S26(A). This is particularly the case when the preamble to Policy S26 is taken into account and it is noted that there is no particular reason why this type of use should be confined to the city centre and district centres. The emerging Finalised Local Plan Review recognises that the application site can be considered suitable for an amusement arcade. Taking into account the fact that no objection has been received to Policy 54 and that the inquiry on the Finalised Plan is imminent, it is considered that substantial weight ought to be placed on that policy.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the grant of planning permission contrary to the provisions of Policy S26 (A) of the adopted Local Plan. It is therefore recommended that planning permission be granted with conditions.

## Design

The proposed development involves a change of use only and therefore no design matters require to be considered as part of this application.

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## CONCLUSION

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Although the proposed development does not comply with one of the strands of Policy S26 of the adopted Local Plan, it fully accords with the other policies of the adopted Plan, the relevant policies in the Finalised Plan and Government Guidance on amusement arcades. In addition it is considered that the site is sufficiently distant from houses to ensure that it will not result in an adverse impact on residential amenity.

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## RECOMMENDATION

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It is recommended that planning permission 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 The use hereby permitted shall cease within 2 years of the date it commences as evidenced by the issuing of a licence for the amusement arcade.

- 3 No use shall be made of the premises before 10.00 hours and after 22.00 hours on any day.
- 4 This permission shall not enure for the benefit of the land but shall operate for the benefit of the applicant only, and on the discontinuance of that persons use of the land the use shall cease.
- 5 Amusement only machines shall be installed on the premises and no amusement with prizes machines shall be provided.

## Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To allow the Council to monitor the development from the point of view of potential noise and disturbance and any possible impact on residential amenity.
- 3 To minimise any potential noise or disturbance from the premises in the interests of residential amenity.
- 4 The premises closely adjoin the applicant's house. Policy S26 of the adopted Local Plan contains a presumption against the siting of amusement arcades close to houses but it is considered that as long as there is a linkage between the applicants operation of the proposed amusement arcade and occupation of the house then the proximity of the 2 uses is acceptable.
- 5 To accord with the applicants stated intentions.