

KEY INFORMATION

Ward Tay Bridges

Proposal

Change of use from arcade (sui generis) to be betting shop (Class 2)

Address

32 Reform Street
DUNDEE
DD1 1RH

Applicant

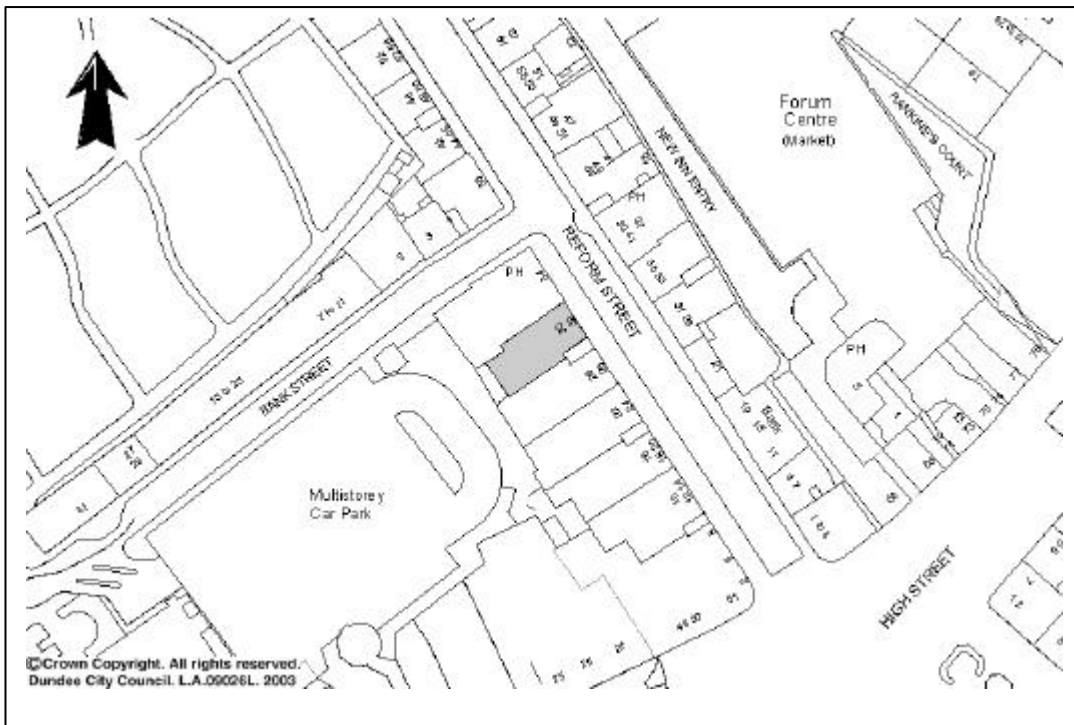
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Agent

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Registered 22 August
2005

Case Officer E Jones



Proposed Betting Shop in Reform Street

A Change of Use from Amusement Arcade to betting shop is **RECOMMENDED FOR REFUSAL**.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposed change of use is contrary to Policy 34 of the Dundee Local Plan Review 2005 as the use would be an unacceptable Class 2 use in the City Centre Retail Core.

Accordingly, the application is Recommended for **REFUSAL**. There are no material considerations of sufficient strength to support the granting of planning permission contrary to that policy.

SUMMARY OF REPORT

- Planning permission is sought for the change of use of an existing amusement centre to a betting shop. There are no proposed changes to the building at this stage. The amusement centre is a "sui generis" use and the betting shop is a Class 2 use.
- The site lies on the west side of Reform Street close to its junction with Bank Street, within the pedestrianised section of the street. This part of Reform Street has a mix of ground floor and there are offices and flats on upper levels. The northern part of Reform Street has a higher percentage of Class 2 uses with some shops.
- Policy 34 of the Dundee Local Plan Review 2005 seeks to protect the shopping functions and complementary uses in the City Centre Retail Core which includes this site. The policy states that subject to detailed consideration, some banks and building societies may be acceptable but other Class 2 uses will not be acceptable. The applicant's agent has submitted a statement of justification which does not agree with this interpretation of the wording of the policy.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of an existing amusement arcade to a betting shop. There are no proposed alterations to the building, the application is only in respect of the use. The amusement centre is a "sui generis" use and a betting shop is a Class 2 use. The applicant's agent has submitted a supporting statement which is considered in the Observations below. A copy is also in Members' lounges.

SITE DESCRIPTION

The unit lies on the west side of Reform Street, close to its junction with Bank Street. There is a large public house to the north and shops to the south with offices on the upper levels. There are shops and an amusement arcade on the east side of the street with offices and flats above. To the rear lies the multi storey car park accessed from Bank Street. Reform Street is a busy part pedestrianised street which leads directly on to High Street and City Square. The southern, pedestrianised area which contains this site is characterised by a mix of ground floor uses including Class 1 retail uses, Class 2 uses including building societies, Class 3 restaurant/cafe uses one of which has a large take away function and two existing amusement facilities. The northern part of the street has a higher percentage of Class 2, building society uses.

The unit has a traditional shop front with central doorway.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 34 - City Centre Retail Core.

Policy 68 - Development in Conservation Areas.

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



LOCAL AGENDA 21

There are no Local Agenda 21 themes of direct relevance to this application.

SITE HISTORY

Planning permission for change of use from shop to amusement centre was granted subject to conditions on 25/09/2000 (ref D24666). Consents for alterations to the listed building and the installation of illuminated signage in association with this new use were also approved in 2001.

A planning application for the change of use from the amusement centre to a betting shop was refused by the Development Quality Committee on 31 January 2005 on the grounds that the development was contrary to Policy 34 of the Finalised Dundee Local Plan Review 2003.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and one objection was received from an adjacent business in Reform Street on the grounds that there is no change in

circumstances since the previous application was refused. A late objection, on planning policy grounds, was received from consultants acting for an un-named commercial client. The objections are considered in detail in the Observations below and copies are available in Members' lounges.

CONSULTATIONS

The Head of Trading Standards and Environmental Health advises that betting shops have the potential to increase the noise burden for residents and request the imposition of a condition relating to noise control.

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.

Dundee Local Plan Review 2005.

Policy 34 refers to the City Centre Retail Core and this site is identified within that Core. Dundee is now ranked as one of the top three shopping destinations in Scotland and the plan seeks to ensure that the shopping function continues to expand. The policy is intended to ensure that "the vitality and visual appeal of the core area is not diluted by an over-representation of other types of businesses lacking the visitor attraction potential of its shops". It is considered that the City Centre Retail Core should be retained in retail use but with acceptable complementary Class 3 (Food and Drink) uses.

The policy supports proposals for Class 1 retail uses and will resist proposals which will result in the loss of ground floor retail uses other than to Class 3 uses. The policy goes on to consider the acceptability of banks and building societies geared towards shoppers but will not accept other uses within Class 2.

The proposed use is Class 2 and therefore, in principle, the use is not acceptable.

Limited Class 2 uses as detailed may be acceptable but other Class 2 uses are not. This is an unacceptable Class 2 use. The current use of the site is a sui generis amusement centre but it has the appearance of a retail shop and if an alternative use is proposed in this particular location, it should be either Class 1 or Class 3 in accordance with the policy. The change of use proposed will prevent the site becoming available for an acceptable use which would help to support the retail functions of the City Centre. It is considered that the proposed change of use is contrary to Policy 34.

As the application is for change of use alone with no changes to the exterior, it is considered that Policy 68-Development in Conservation Areas does not apply to this application.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Other Material Considerations

Objections

One objection was submitted by a neighbouring business. The objection is on the grounds that there is no change in circumstances since the previous application was submitted to and refused by the City Council. A late objection on grounds of Policy 34 of the Dundee Local Plan Review and the precedent of the previous decision was submitted by a consultant on behalf of un-named commercial clients.

Statement of Justification

The applicant's agent has submitted a statement in support of the application. The key issue is the interpretation of Policy 34. The agent notes that the policy states that Class 1 uses (shops) will be "encouraged" but does not assert that uses outwith Class 1 will be "unacceptable". The agent considers that the policy links the unacceptability of Class 2 uses to the loss of Class 1 shops. As the current use is a sui generis use, the proposed change to Class 2 will not result in the loss of retail floor space. The agent therefore argues that the policy does not apply in this case.

The full wording of Policy 34 is:

"Within the City Centre Retail Core defined on the City Centre Retail Area map proposals for Class 1 (retail) uses will be encouraged. Proposals which would result in the loss of ground floor retail uses to uses other than Class 3 uses will not be permitted (within the Overgate Centre this restriction will apply to all floor levels). As an exception to this and subject to careful consideration of their size, format and location, banks and building societies geared towards shoppers may be considered as acceptable complementary uses within the City Centre Retail Core. Other uses within Class 2 will not, however, be acceptable."

As noted above in the Observations, the Council considers that the policy identifies the acceptable uses in the Retail Core and addresses the potential loss of retail floor space. The proposed use is unacceptable in terms of the policy which seeks to maintain the vitality of the shopping centre and the availability of retail units in this important historic street. The policy does not directly exclude other properties in other Use Classes and is therefore considered to apply to all types of property including sui generis uses.

It is concluded from the foregoing that insufficient weight can be accorded to the statement of justification such as to support the granting of planning permission contrary to the provisions of the development plan. The objections on planning grounds and the precedent of the decision in 2004 are supported.

Design

There are no design issues as the application is for change of use only.

CONCLUSION

The proposed change of use does not comply with the relevant policy in the Development Plan. There are no material considerations of sufficient strength to support approval. Accordingly the application is recommended for Refusal.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reason:

Reason

- 1 The proposed change of use is contrary to Policy 34 of the Dundee Local Plan Review 2005 as the use would be an unacceptable Class 2 use in the City Centre Retail Core. There are no material considerations of sufficient strength to support the granting of planning permission contrary to that policy.