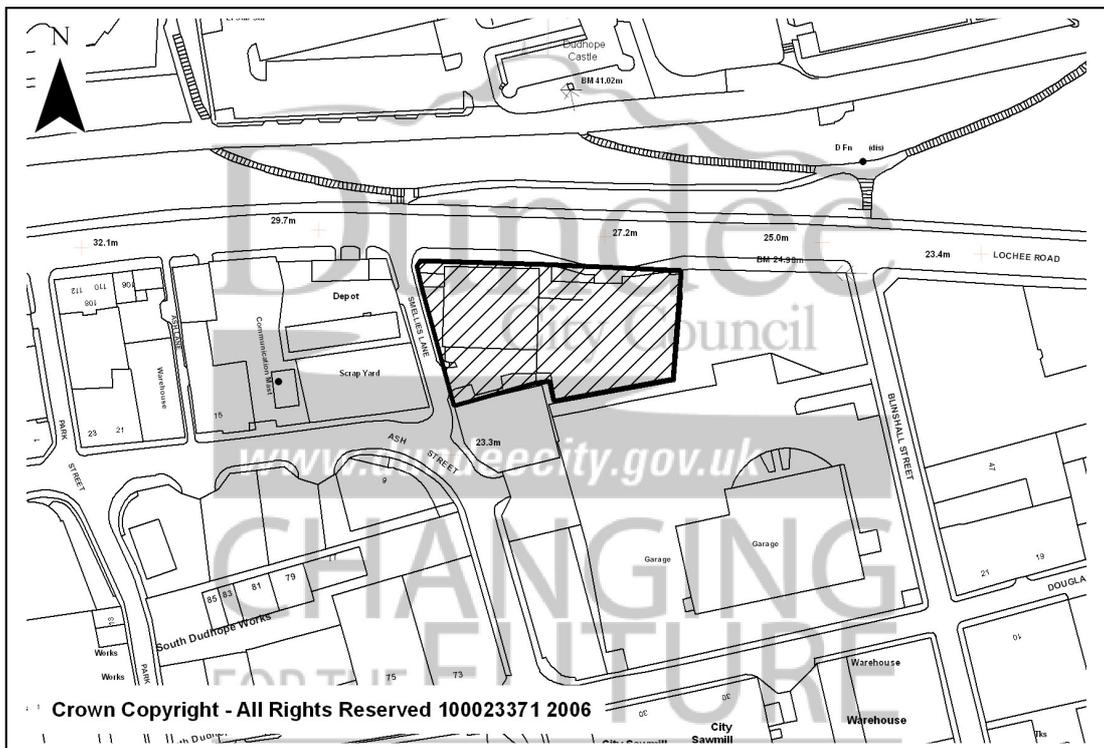


KEY INFORMATION

Ward West End

Proposal

Change of use from car sales to kitchen showroom

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LS1 2RU**Registered** 4 Sep 2007**Case Officer** Eve Jones

New Kitchen Showroom Proposed in Lochee Road

A change of use from car sales to a kitchen showroom is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

The proposal does not comply with Policies 26 or 45 of the Dundee Local Plan Review 2005. However sufficient weight can be accorded to other material considerations (SPP8 Town Centres and Retailing; the location of the site and the adjacency of public transport facilities; and the future susceptibility of the building to vandalism and potentially continued vacancy) to justify a recommendation of **APPROVAL** contrary to the provisions of the development plan subject to the conclusion of a Section 27 legal agreement and conditions.

SUMMARY OF REPORT

- The proposal is for the change of use of an existing vacant car showroom to a kitchen showroom at 80 Lochee Road, Dundee.
- The building has a curved roof and a large glazed frontage to the road. Vehicular access to the site is to continue to be taken from Smellies Lane to the west. 40 car parking places as existing are to be provided for the proposed use.
- The proposal is contrary to Policy 26 of the Dundee Local Plan Review 2005 in that the site lies within an area designated as a General Economic Area which supports proposals within Classes 4, 5 and 6 of the Use Classes Order. The Policy specifically precludes Class 1 uses. The proposal is also contrary to Policy 45 of the Dundee Local Plan Review 2005 as this policy directs new or expanded retailing to the City Centre and District Centres.
- No objections to the proposals were received.
- It is considered that in this case, and for the reasons outlined in the report, that weight can be attached to material considerations sufficient to counterbalance the non compliance with the development plan. However, conditions and the conclusion of a Section 75 Agreement for the reasons specified are appropriate.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use from an existing, vacant car showroom to a kitchen showroom. The showroom will display kitchen layouts and goods will be ordered for separate delivery from distribution warehouses. There are no changes proposed to the elevations of the building. A comprehensive supporting statement has been submitted to justify the proposed change of use.

SITE DESCRIPTION

This is a modern, purpose built showroom on the west side of Lochee Road, opposite Dudhope Park. The building has a curved roof and a large glazed frontage to the road. Due to the slope of the site, there is access for goods into the rear of the building through a number of roller shutter doors. The open yard/parking on the east side of the building is served by a vehicle access taken from Smellies Lane to the west. The site operated as an Audi car showroom until the dealership moved to a new site on Kings Cross Road in 2005. The building has been vacant since then and has been the subject of vandalism.

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 26 - General Economic Development Areas.

Policy 45 - Location of New Retail Developments.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

Scottish Planning Policy 8 - Town Centres and Retailing.

Non Statutory Statements of Council Policy

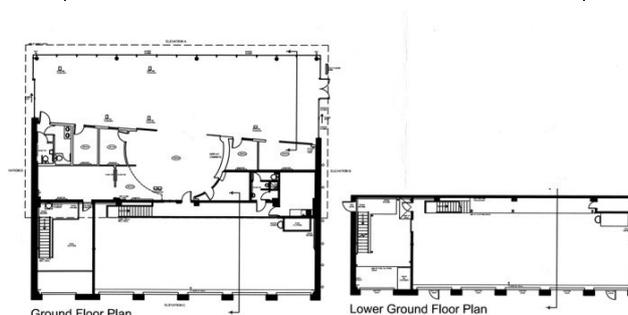
There are no non statutory Council policies relevant to the determination of this application.

SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

SITE HISTORY

98/23249/D Planning permission for erection of single storey car showroom, 5 bay workshop and associated car display and parking approved subject to conditions on 29 April 1998.



PUBLIC PARTICIPATION

The application has been the subject of statutory Neighbour Notification and has also been advertised as a development contrary to Policies 26 and 45 of the Dundee Local Plan Review 2005. There were no responses.

CONSULTATIONS

There were no adverse comments from consultees.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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 26: General Economic Development Areas - "In areas designated as General Economic Development Areas, proposals for Class 4, 5 and 6 developments will be supported. Other uses of a wider industrial nature such as car showrooms, wholesaling, taxi offices and scrap yards may be permitted provided;
- there is no detrimental impact on neighbouring uses and local residential amenity, and
- there is no unacceptable traffic impact; and
- the scale of development is appropriate to the size and location of the site.

Class 1 retail will not be permitted unless in accordance with other policies in the Local Plan."

The site falls within an area designated as a General Economic Development Area and, as such, it is covered by Policy 26 of the Local Plan.

Within these areas, proposals for uses within classes 4, 5 and 6 are supported and a wider range of uses including car showrooms are specifically noted as acceptable subject to other policies in the Plan. Therefore the previous use as was in accordance with this policy. The policy also explicitly precludes Class 1 retail use unless this is in accordance with other policies of the Local Plan. The policy also notes that if a car showroom is considered to be acceptable, the Council would reserve the right to control any potential permitted development change from showroom to Class 1 retail use if the premises were below 235 square metres. This site is 556 square metres and therefore cannot change to Class 1 retail without planning permission hence the submission of this application. However, the need to ensure that the site is not used for unrestricted Class 1 retail use is an issue which will be dealt with elsewhere in this report.

It is considered that the acceptability of the proposed Class 1 retail in respect

of Policy 26 depends upon the assessment of other relevant policies in the Local Plan.

Policy 45: Location of New Retail Developments - "The City Centre and District Centres will be the locations of first choice for new or expanded retail developments not already identified in the Local Plan. Proposals for retail developments outwith these locations will only be acceptable where it can be established that:

- a no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres; and
- b individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres; and
- c the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres; and
- d the site is readily accessible by modes of transport other than the car; and
- e the proposal is consistent with other Local Plan policies.

Development proposals generating significant traffic must be supported by Transport Assessments and Travel Plans where necessary. Travel Plans will be implemented through appropriate planning and/or other agreements."

Given criterion 'a' of this policy, it is necessary for the applicant to demonstrate that no suitable site is available in a sequentially preferable location. The supporting statement submitted with the application highlights a range of opportunities examined as part of this exercise. While this identifies a number of potentially acceptable units within the City Centre, these are rejected as unsuitable due to the fact that they are within a primary retail area and are "most suited to Class 1 non bulky goods". However, this is not in itself a consideration which should render these units unacceptable and seems to be based on the premise that bulky goods retailing should be excluded from the retail core. The Local Plan's policies do not discriminate between bulky and non bulky goods in the City Centre retail core area. The supporting statement identifies that the size of unit required does exclude the majority of

the available sites however it states that the 4 units available in the City Centre would attract "key national multiple retailers" which would strengthen the retail profile of the City. The statement considers that a kitchen showroom would not bring similar benefits. However a City Centre should provide a range of goods for sale. It may be that the high bulk/low turnover nature of the operation is such that the applicant considers that it would not be economically viable in a retail core location where rental levels would effectively rule out such a use. It is considered that the submitted statement does not demonstrate that no suitable site is available as required by criterion a.

With regard to criterion 'b' - impact on vitality and viability of existing centres - it is unlikely that a development of this kind would involve significant impact. This is in view of the limited scale of the proposal and the nature of the retailing involved.

In the case of criterion 'c', the supporting statement makes reference to the Dundee City Region Retail Study and to the projected requirement it identifies for bulky goods floorspace. It suggests that the proposal would contribute towards meeting this requirement. The statement also indicates that, given its limited turnover, the proposal would not jeopardise the redevelopment of the Gas Holder site in Dock Street for bulky goods retailing. While no specific turnover figures are presented to support this assertion, it would seem, on balance, to be a realistic conclusion.

Given its location alongside the North West Arterial Route and the high frequency of bus services along this route, the proposal could be viewed as satisfying criterion 'd'.

There would appear to be no other Local Plan policies of relevance to the proposal and on this basis it could be concluded that there are no issues in terms of criterion 'd'.

The supporting statement claims that the proposed kitchen showroom is not a typical Class 1 retail use given that goods cannot be taken away from the showroom (they are delivered from separate distribution warehouses). The implication seems to be that this should be taken into account as a supporting factor. However, this should not be seen as providing a

special justification for the proposal since this is a fairly typical arrangement with bulky goods retailing (eg furniture).

It is considered that the applicant has failed to demonstrate that there are no suitable sites available for this use and the proposal fails to comply with Policy 45. With reference back to Policy 26, if the application fails to meet other policies in the Local Plan, it also fails to meet Policy 26.

It is concluded that the proposed use of the site for Class 1 retail does not comply with Policies 26 or 45 and the acceptability of the proposal falls to be considered in terms of any relevant material considerations.

Other Material Considerations

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

SPP8 - Town Centres and Retailing.

The policy guidance sets out the Scottish Government policies which seek to establish a mix of uses and activities in town centres and identify the best locations for retail developments. The guidance identifies that the investment priority should focus on town centres and requires the sequential approach to identify appropriate locations for retail developments. This has been carried out on behalf of the applicant as detailed above and it is considered that there is no inherent reason why a kitchen showroom should not be located within the City Centre. The second category of choice is edge of town locations, then commercial centres and finally out-of-centre locations. This site is too far to be classed as edge of centre as it is not within comfortable and easy walking distance of the primary retail area but it is on a busy main distributor road into the City with good parking and good public transport links.

The supporting statement advises that the applicant, Magnet, has an existing trade only outlet in Dundee but this is not available to the public. The proposal will therefore provide a new supplier to the Dundee market. Their optimum store size is approximately 500 square metres. Members are advised that the existing retail units on the out-of-town sites such as Kingsway West are prevented, by legal agreement, from being sub-divided to provide smaller units which might

accommodate this company and therefore the out-of-centre locations are unacceptable.

The guidance does recognise that application of the sequential approach does require "flexibility and realism" from planning authorities, developers, owners and occupiers to ensure that "different types of retailing, which serve different purposes, are developed in the most appropriate location" and this should include scope for "making use of existing vacant and under-used land or premises".

As noted in the site description, this is a modern, attractive, purpose built car showroom building located on a prominent site on a main distributor road into the City Centre. It has been vacant for some time and has been the target of attacks by vandals. The supporting statement advises that it has been marketed for 14 months and has not attracted an alternative car sales business.

It is considered that in this particular case, the beneficial reuse of this attractive modern building; in a good location; well served by public transport; for a very specific retail use; can be supported by these material considerations which will allow the sequential test results detailed above to be set aside.

However, if Members are minded to support the proposal it should be on the basis that the operation is restricted by a Section 75 Agreement to use only as a kitchen showroom operation in order to prevent unrestricted Class 1 retail use which could raise significant policy/retail impact issues.

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 the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

No changes are proposed to the existing buildings and accordingly no design issues arise. The design of the existing buildings is considered appropriate for the use proposed.

CONCLUSION

In conclusion although the proposal does not comply with Policies 26 or 45

of the Dundee Local Plan Review 2005 it is considered that sufficient weight can be accorded to other material considerations (SPP8 Town Centres and Retailing; the location of the site and the adjacency of public transport facilities; and the future susceptibility of the building to vandalism and potentially continued vacancy) to justify a recommendation of approval contrary to the provisions of the Development Plan.

RECOMMENDATIONS

Recommendation 1

The planning permission shall not be issued unless and until an agreement under Section 75 of the Town and Country Planning (Scotland) Act between the Council and all parties with an interest in the land has been recorded. This agreement will relate to:

- 1 Use only as a kitchen showroom operation. This is in order to prevent unrestricted Class 1 retail use which could raise significant policy/retail impact issues.

Recommendation 2

It is recommended that consent 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 No vehicular access to the application site shall be taken directly from Lochee Road.
- 3 Prior to the commencement of the use hereby approved, all existing car parking within the application site shall be made available for customer and staff use only and shall be retained in perpetuity.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of traffic safety.
- 3 To ensure that an adequate degree of off street car parking is made available for the proposed use in the interests of traffic safety.