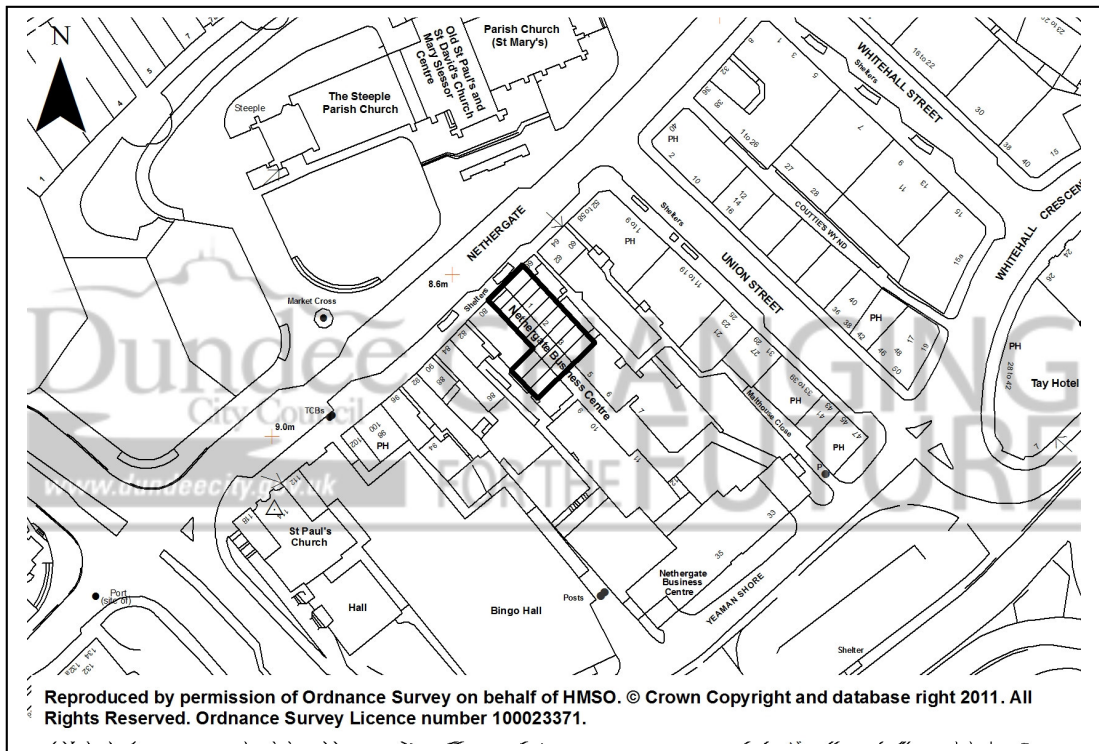


KEY INFORMATION

Ward Maryfield

ProposalChange of use from Class 4
(Business)**Address**Nethergate Business Centre
80 Nethergate
Dundee**Applicant**Aviva Investors 1 Poultry
London
EC2R 8EJ**Agent**NRT Planning - Laura
Marshall
Fifth Floor
50 Conduit Street
London
W1S 2YT**Registered** 3 Aug 2011**Case Officer** B Knox

Proposed Retail Unit at Nethergate Centre

The change of use from Class 4 (Business) to Class 1 (Shops) and development is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

The application is in accordance with the relevant policy of the Dundee Local Plan Review 2005. It is considered that there will be no significant impacts upon neighbouring properties as a result of the uses, subject to the use of appropriate conditions. The views of the objectors are not supported in this instance. There are no material considerations to justify a decision contrary to the Development Plan. The application is therefore recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- The application proposes the change of use of part of the Nethergate Business Centre to Class 1 use. The principle of this change of use is in accordance with Policy 36 of the Dundee Local Plan Review 2005.
- The application was the subject of statutory neighbour notification procedures and in total 6 letters of objection were received. Amongst other things, the concerns raised relate to the need for retailing in this location. The views of the objectors cannot be supported in this instance.
- There are no issues in relation to design as no alterations to the building are proposed at this time.
- The application is in accordance with the relevant policy of the Dundee Local Plan Review 2005. It is considered that there will be no significant impacts upon neighbouring properties as a result of the uses, subject to the use of appropriate conditions.

DESCRIPTION OF PROPOSAL

The application proposes the change of use of part of the Nethergate Business Centre to Class 1 use with a floor area of approximately 450m². Some business units will be retained to the rear of the building to allow current occupants to relocate within the Nethergate Business Centre. As no tenants are in place at this time, it is the change of use that permission is sought for at this time. Shop front designs will require to be dealt with when a tenant is in place. Elevational drawings have been included in the application to confirm that no elevational alterations are proposed as part of the current application.

Servicing is proposed from the front entrance as there is no location at the rear of the property that would allow servicing to be carried out from the rear.

SITE DESCRIPTION

The application site is located on the south side of the Nethergate in the city centre. It forms part of the Nethergate Business centre and is situated directly across from the Overgate Shopping Centre, in a busy location where there are several bus shelters. The majority of the ground floor uses fronting onto the Nethergate in this location fall into Class 1 retailing uses. There are also hot food takeaways in close proximity to the application site.

In terms of the Dundee Local Plan Review 2005 the site is located in what is defined as the Speciality Shopping and Non Core Area. The location of the building means that the majority of the site it is within the Central Conservation Area. Part of the site relates to part of a Category B Listed building forming part of the Nethergate Business Centre.

POLICY BACKGROUND

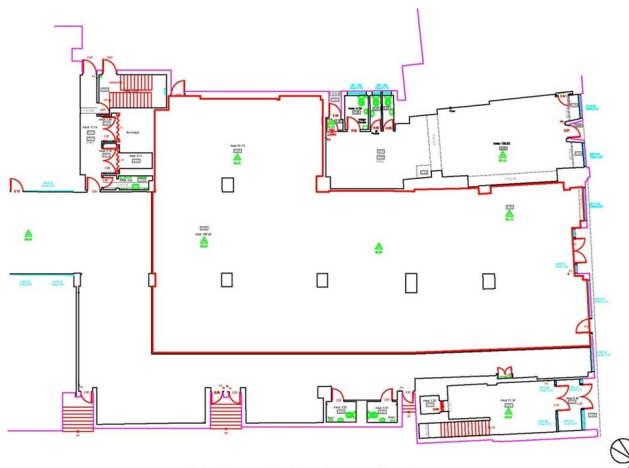
Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 2005

The following policies are of relevance:

Policy 36: City Centre Speciality Shopping And Non Core Area - within the City Centre Speciality Shopping and Non Core Area defined on the City Centre Retail Area map proposals for retail use will be encouraged. Non retail uses within Classes 1 (Shops), 2



Nethergate Business Centre
Ground Floor Plan - Proposed

(Financial, Professional and Other Services) and 3 (Food and Drink) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 will also be supported. Proposals for ground floor premises involving uses falling outwith these Classes will not normally be permitted.

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.

Policy 61: Development In Conservation Areas - within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will

require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features and the historic pattern of streets and spaces, as identified in the Conservation Area management plans to be advanced in the near future.

Scottish Planning Policies, Planning Advice Notes and Circulars

SSP: The Scottish Planning Policy document is the statement of the Scottish Government's policy on nationally important land use planning matters. This document contains specific subject policies including retailing. It states that town centres should be the focus for a mix of uses including retail. It further advises that the sequential approach should be used when selecting locations for all retail and commercial leisure uses unless the development plan identifies an

exception.

Non Statutory Statements of Council Policy

There are no policies of relevance.

SUSTAINABILITY ISSUES

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

SITE HISTORY

There is no relevant site history associated with this application.

PUBLIC PARTICIPATION

The application was the subject of statutory neighbour notification procedures and in total 6 letters of objection were received. The concerns raised relate to:

- no further retail premises are required in this area. It will not reduce the number of empty units in the locality;
- there is a shortage of office/business space which will increase as the economic climate improves;
- further retail units in the area will lead to increased parking problems and traffic congestion and pedestrian safety;
- given the size of the proposed unit it is most likely to be a small supermarket. This type of development is not required in this area and will lead to overprovision of shops in this area of the city;
- late night opening by the retail occupiers of any such new retail would add to the noise, nuisance and smell in the area;
- the area is inundated with people crowding to get on buses and drug users who use the entrances in the Nethergate. A change of use to retailing will exacerbate the problem; and
- a mix of use types in the area is more beneficial to the overall local community and would more properly and comprehensively address and meet the needs of the local area.

Members will have already had access to copies of the objection letters and it

is intended to comment on the above representations in the Observations section of the Report.

One of the objectors also commented that there is an existing scheme for their own property to create a large retail unit and that the approval of the application would lead to overprovision and threaten this investment. This concern relates to commercial competition and cannot be taken into consideration in the determination of this application.

CONSULTATIONS

The Head of Environmental Protection has advised that two conditions be attached to any grant of permission. One of these would relate to the total noise from mechanical and electrical plant and the other is in relation to the times for deliveries. These can be attached to any grant of permission should Members be minded to approve the development.

OBSERVATIONS

Statutory Requirements

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless other material considerations indicate otherwise

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 36 of the Dundee Local Plan Review 2005 states that within the City Centre Speciality Shopping and Non Core Area defined on the City Centre Area map proposals, retail use will be encouraged. Therefore, the proposed change of use from Class 4 business to that of Class 1 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 will be supported. The principle of this change of use is therefore acceptable and in accordance with Policy 36 of the Dundee Local Plan Review 2005.

Policy 45 states that 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 a certain set of criteria can be addressed. Since the site is within the City Centre, the application is in accordance with the requirements of this Policy.

Policy 61 states that all development proposals will be expected to preserve or enhance the character of the surrounding area. Due to the fact that there are no elevational alterations proposed as part of this application, there will be no impact upon the features that contribute to the character of the conservation area.

It is concluded that the proposed change of use is in accordance with the relevant policies of the Development Plan.

Material considerations

SPP - the policies of the Development Plan are considered to be in accordance with the guidance set out in SPP, including the guidance in relation to the sequential approach to new retail development. The proposal has been considered against the relevant retailing policies of the Development Plan, as set out above, and it is considered that no further issues are raised in terms of SPP since the site is located within the city centre, which is the first location of choice for new retailing.

Compatibility with existing uses - as noted in relation to the site description, there are a number of other Class 1 uses and hot food takeaway uses occupying the ground floor units in the immediate area. It is considered that the provision of additional Class 1 use will not prejudice the other ground floor uses in the area.

It is therefore considered that there will be no significant adverse impacts upon occupiers of residential properties.

Views of the objectors:

- No further retail premises are required in this area. It will not reduce the number of empty units in the locality.
- This type of development is not required in this area and will lead to overprovision of shops in this area of the city.
- A mix of use types in the area is more beneficial to the overall local community and would more properly and comprehensively

address and meet the needs of the local area.

- There is a shortage of office/business space which will increase as the economic climate improves.

The shopping area outwith the City Centre core offers a range of generally less mainstream retailing than that found within the Core Area. Given its lower intensity of shopper attraction, it is an area which can accommodate a wider range of non retail uses. Nevertheless, it performs a valuable function by providing opportunities for independent retailers and for speciality shopping. It also provides opportunities for shops and services geared to the needs of City Centre resident. It is important to support the role of the speciality shopping and non core area. As discussed above, the use of part of the building for Class 1 purposes is in accordance with the relevant policies of the Dundee Local Plan Review 2005. It is considered to be a suitable and appropriate location for the siting of retailing and other associated Class 1 uses. A mix of use types is still possible in this location since Class 1 uses comprises of a number of different purposes including, amongst other things, retail sale of goods; travel agency; hairdressing and as a laundrette or dry cleaners.

- Further retail units in the area will lead to increased parking problems and traffic congestion and pedestrian safety.

The applicants indicated in their submission that servicing would be likely to be required to be achieved from the front entrance and that deliveries could be controlled by time restrictions. The Head of Environmental Protection has asked for a condition of this nature to be applied to any grant of permission to ensure that the deliveries operate at appropriate times. There are no concerns in relation to the ability of pedestrians to safely access public transport as a result of the proposed change of use.

- Given the size of the proposed unit it is most likely to be a small supermarket.

The applicants have indicated that this application seeks only to

establish the principle for retail at this location. There is no confirmation of the end user of the property at this time. It requires to be assessed on the basis of a Class 1 use in any case. As discussed above, Class 1 use is acceptable and in accordance with the Development Plan.

- Late night opening by the retail occupiers of any such new retail would add to the noise, nuisance and smell in the area.

Taking into consideration the mix and nature of the surrounding land uses, including hot food takeaways and a public house, it is considered that the operation of a Class 1 use from the property would not be likely to be of significant detriment to any occupiers of nearby residential property.

- The area is inundated with people crowding to get on buses and drug users who use the entrances in the Nethergate. A change of use to retailing will exacerbate the problem.

The fact that the area is subject to a high footfall is presumably one of the reasons that the applicants are seeking a change of use to Class 1 retail. There are no concerns in relation to the ability of pedestrians to safely access public transport as a result of the proposed change of use. Similarly, the presence of drug users in the locality will not be affected by the proposed change of use to Class 1. The occupation of the units which are currently vacant may even act as a deterrent in this regard.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the refusal of planning permission contrary to the provisions of the Development Plan. It is therefore recommended that planning permission be granted with conditions.

Design

There are no issues in relation to design as no alterations to the building are proposed at this time.

CONCLUSION

It is concluded from the foregoing that the application is acceptable and in accordance with the relevant policy of the Dundee Local Plan Review 2005. It is considered that there will be no significant impacts upon neighbouring properties as a result of the uses, subject to the use of appropriate conditions.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:

- 1 The total noise from the mechanical and electrical plant shall not exceed NR35 during night time as measured 1 metre from the facade of any adjacent residential property. NR35 is applicable for the period 11.00pm to 7.00am.
- 2 No deliveries, including loading, unloading or lay-up shall take place between 10.00pm and 7.00am hours.

Reasons

- 1 In order to avoid any adverse impacts upon neighbouring residential occupiers in terms of noise.
- 2 In order to avoid any adverse impacts upon neighbouring residential occupiers in terms of noise or disturbance.