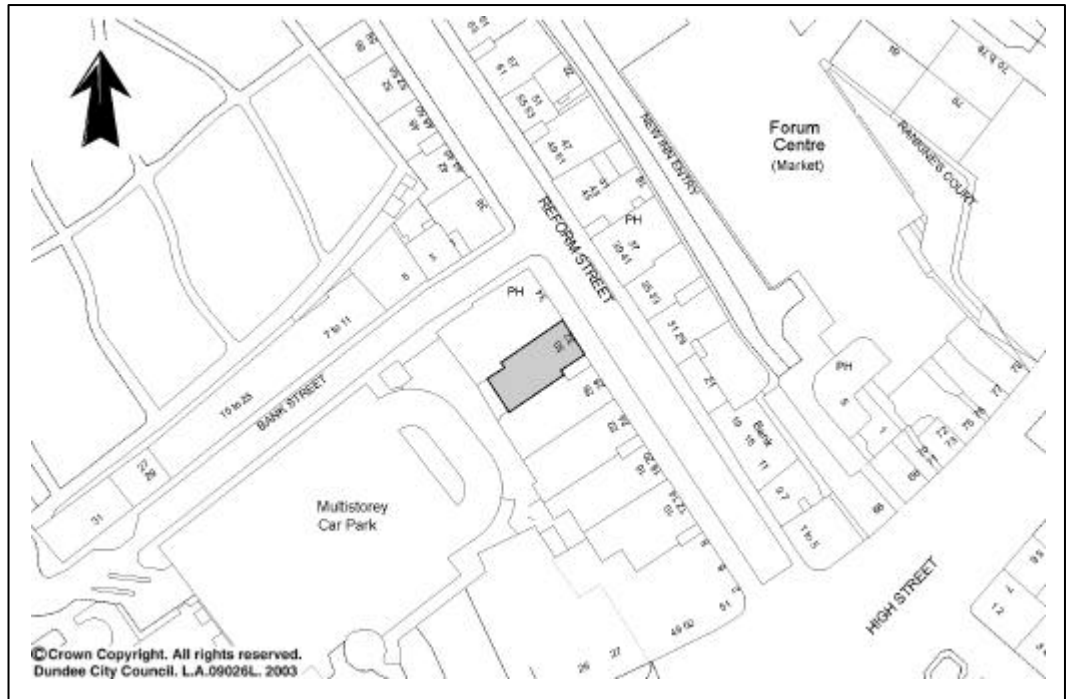


**KEY INFORMATION****Ward** Tay Bridges**Proposal**Change of use of arcade  
(Class 11) to betting shop  
(Class 2)**Address**32 Reform Street  
Dundee  
DD1 1RH**Applicant**GA Estate Agency Ltd  
c/o Bonvilles Court  
Saundersfoot  
Pembrokeshire  
SA69 9BG**Agent**Keppie Planning Ltd  
160 West Regent Street  
Glasgow  
G2 4RL**Registered** 9 November  
2004**Case Officer** Eve Jones

# Proposed Betting Shop in Reform Street

A change of use of an arcade (Class 11) to a betting shop (Class 2) is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposal is in accordance with the Dundee Local Plan 1998 where the site is in a Secondary Retail area. The Finalised Dundee Local Plan 2003 re-defines the site within the Retail Core where such uses are not supported. Two objections are not directly relevant and a statement of justification is not supported. The application is recommended for **REFUSAL** in accordance with the material considerations

**SUMMARY OF REPORT**

- Planning permission is sought for the change of use of an existing amusement centre to a betting shop. There are no changes proposed to the exterior of the building or the advertisements at this stage.
- The site lies on the west side of Reform Street, within the pedestrianised area south of the junction with Bank Street. The surrounding uses include a public house, shops, café/restaurants, building societies and another amusement arcade. This is part of the busy City Centre shopping area.
- In the Dundee Local Plan 1998, the site is identified as being within the Secondary Retail Area where the relevant policy states that non retail activities like the proposed betting shop are acceptable. In the Finalised Dundee Local Plan Review 2003, the site is in the Retail Core Area where the policy does not support such uses in order to protect the vitality and viability of the City Centre shopping functions. This policy is a material consideration in the determination of this application.
- Two objections have been made but the grounds are either non planning issues or relate to other policy in the development plan which is not relevant to this application.
- The applicant's agent has submitted a statement of justification in support of the application which interprets the relevant policy in the Finalised Local Plan in a way which is not supported by the Council.

## 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 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. Offices extend across the shops and the application site. 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 lead directly on to High Street and City Square. The southern, pedestrianised part of the street 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 1998

The following policies are of relevance:

Policy S5 - Secondary Retailing Areas.

### 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 34 - City Centre Retail Core.

### 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

The proposal complies with Key Theme 12.

## 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.

## PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and two objections were received from other businesses in Reform Street. The grounds of objection are only partly related to the application and are considered in detail in the Observations below. Copies are available in Members' lounges.

## 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

- 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. The site lies within the area identified as Secondary Retailing in the City Centre and Policy S5 applies. The policy states that non-retail activities within Classes 1, 2 and 3 of the Town and Country Planning (Use Classes) (Scotland) Order 1989 will generally be acceptable in ground floor shop-type premises. The proposed use is Class 2 and the site was formerly a shop unit. The proposal complies with the policy.

As the application is for change of use alone, it is considered that Policy BE11 - Development in Conservation Areas refers to environmental changes and there are no exterior alterations in this proposal. It is therefore considered that the policy does not apply to this application.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

## Other Material Considerations

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

### Finalised Dundee Local Plan Review 2003.

The Finalised Draft which has now been the subject of a Public Inquiry, is a material consideration in the determination of planning applications.

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. Change of use as 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.

### Objections.

Two objections were submitted by neighbouring businesses. One on behalf of the offices above the site, an objection was lodged on the following

grounds: i) contrary to Policy S3 of the Dundee Local Plan. Policy S3 does not apply to this application as the site is within the Secondary Retail Core covered by Policy S5 not the Retail Core Frontage dealt with by Policy S3.

ii) the location next to a public house will result in undesirable activities detrimental to the amenity of the area. This is a matter for licensing and is not a planning issue.

iii) noise from the betting shop will affect the amenity and functions of the solicitors offices above the proposed betting shop. Noise can be controlled under other legislation and Council planning policy relates to residential amenity.

iv) overprovision. This is not a planning issue and planning controls should not be used to restrict commercial competition. It is a matter for the licensing board.

v) Policy BE10 should apply if permission were to be granted. The application is only for change of use, no alterations or amendments to the building are proposed.

The submitted grounds of objection are not planning issues or do not related to the actual policy which applies to this application.

The second objection relates to the external appearance of the property and the upgrading which has been carried out in Reform Street. The objector states that approval of this application would be a detrimental step backwards in the plans for the street. However, the application only relates to a change of use and no external alterations are proposed. The objector was asked to clarify his objections on planning grounds but there was no further communication.

It is considered that the grounds of objection are not clearly based on planning issues or the relevant planning policies and therefore are not considered directly relevant to the determination of this application.

### Statement of Justification.

The applicant's agent has submitted the case in support of the application. The key issue is the interpretation of Policy 34. The agent considers that the majority of Class 2 uses including betting shops are unacceptable when resulting in "the loss of ground floor retail uses". 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.

As noted above in the Observations, the Council considers that the policy addresses the proposed uses in the Retail Core as well as losses of existing retail floor space. The proposed use is clearly unacceptable in terms of the policy and any change of use from the existing sui generis use should be to a use which complies with the policy in order to maintain the vitality of the centre and availability of retail units in this important historic street.

It is concluded from the foregoing that sufficient weight can be accorded to the material consideration of the Finalised Dundee Local Plan Review such as to justify the refusal of planning permission contrary to the provisions of the development plan. The objections are not considered to be relevant to the determination of the application. The agent's statement of justification is not supported for the reasons given above.

### Design

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

## CONCLUSION

The proposed change of use complies with the relevant policy in the Development Plan. The site has been redesignated as part of the Retail Core area in the Finalised Dundee Local Plan Review and the relevant policy seeks to ensure that unacceptable Class 2 uses do not locate in such areas in order to protect the vitality and viability of the shopping area. It is considered that the policy in the Finalised Plan is a sufficiently strong material consideration to support refusal of the application contrary to the development plan policy. Accordingly the application is recommended for Refusal.

## RECOMMENDATION

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

The proposed development is contrary to Policy 34 City Centre Retail Core of the Finalised Dundee Local Plan

Review 2003 as it would result in the establishment of an unacceptable Class 2 use within the area.