

**KEY INFORMATION**

Ward Lochee

**Proposal**

Change of use from a vacant  
Class 1 Retail Unit to a  
Class 2 Betting Office

**Address**

107 High Street  
Lochee  
Dundee

**Applicant**

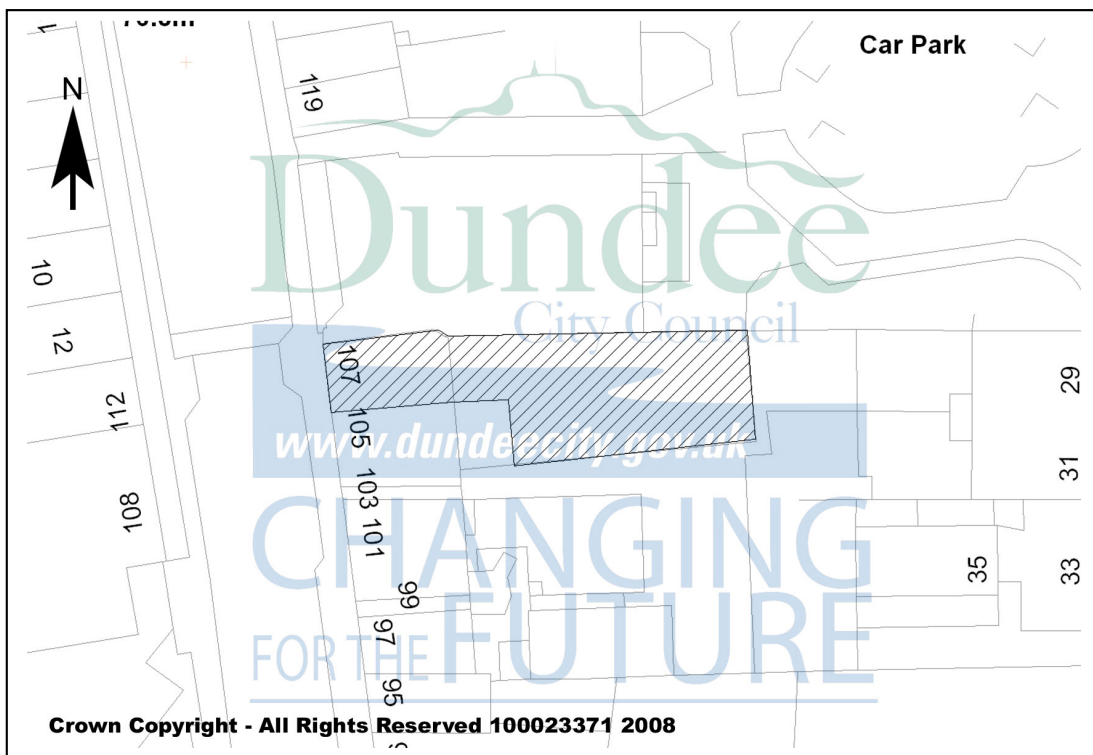
Betfred  
Spectrum  
56-58 Benson Road  
Birchwood  
Warrington  
WA3 7PQ

**Agent**

McNally Associates Ltd  
6 Newton Place  
Glasgow  
G3 7PR

Registered 19 Sept 2008

Case Officer E Jones



## Proposed Betting Shop in Lochee High Street

A change of use from a vacant Retail Unit to a Betting Office is **RECOMMENDED FOR REFUSAL**.  
Report by Director of Planning and Transportation.

**RECOMMENDATION**

Whilst the proposal complies with Policy 39, the objections are supported and it is considered that the material consideration of the proposed closure of Tesco and the need to retain retail units in the High Street is sufficiently strong to justify **REFUSAL** of this application.

**SUMMARY OF REPORT**

- Planning permission is sought for the change of use of a vacant Class 1 retail unit to a Class 2 use for a betting office.
- This large unit, of 190m<sup>2</sup> floorspace, lies on the east side of the High Street. It was previously in use as a fashion retail unit but has been vacant for some six months. The adjacent shop units include a pharmacy, bakers and card shop.
- Dundee Local Plan 2005. Policy 39 - District Centre Core Areas is relevant and The Lochee Physical Regeneration Framework is a material consideration.
- Three objections were received, from a commercial business operating in the vicinity and two local tenants' associations. The tenants associations object to the loss of a shop unit. They suggest the proposed closure of Tesco reinforces the need for a wider range of shops.
- Whilst the proposed use of the premises for a Class 2 betting office does not breach the terms of the Policy 39 criteria, it is considered that in order to achieve the objectives of the Lochee Physical Regeneration Framework it is important to retain shop units in the High Street to provide opportunities for new retail businesses to be located.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for the change of use of a vacant Class 1 retail unit to a Class 2 use for a betting office. There are no changes proposed to the exterior of the premises. The agent has submitted a detailed statement of justification in support of this application.

## SITE DESCRIPTION

The unit lies on the east side of the High Street in Lochee, north of its junction with Burnside Street. It was previously in use as a fashion retail unit but has been vacant for some six months. It is a large unit of 190m<sup>2</sup>, of which it is proposed to provide a customer area of 90m<sup>2</sup> providing 18 viewing screens and four gaming machines. The adjacent shop units include a pharmacy, bakers and household goods shop.

## 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 39 - District Centre Core Areas.

Scottish Planning Policies, Planning Advice Notes and Circulars

SPP8 - Town Centres and Retailing, sets out the framework for protecting town centres. It envisages a broad range of land uses in town centres including business uses. It also recognises the need for development plan policies to better reflect local circumstances when interpreting national policy.

### Non Statutory Statements of Council Policy

The following policy statements are of relevance: The Lochee Physical Regeneration Framework.

## SUSTAINABILITY ISSUES

Policy 5 - Built Environment seeks to enhance local environments through

ongoing regeneration. This issue is addressed in the Observations below.

## SITE HISTORY

There is no planning history directly relevant to this site.

However, two related applications are of relevance to the determination of this application:

04/00136/COU - Planning permission for change of use of a shop unit to a betting office was granted on appeal at Unit 4, Highgate Centre, 102 High Street, Lochee on 27 Jan 2005. This appeal site is almost directly opposite the application site.



06/01003/FUL - Planning permission for change of use of a shop unit to a Class 2 office at 123 High Street, Lochee was granted by the Development Quality Committee on 22 January 2007. The unit lies to the north of the car park access on the east side of the High Street.

A further application in Broughty Ferry has also been raised by an objector and is relevant to the principle of this application.

07/00982/COU - Planning permission for change of use of a shop unit to a betting office at 209 Brook Street, Broughty Ferry was refused by the Development Quality Committee on 17 December 2007.

## PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and three objections were received. One, from agents acting on behalf of another betting office opposite to the site, considers that the proposal is contrary to Policy 39 and the provision of a fourth betting shop in the High Street will adversely affect the vitality and

viability of the District Centre. The others, from local tenants' associations, object to the loss of a shop unit as the centre lacks services such as a greengrocer. The tenants note that the intended closure of Tesco results in a need to provide appropriate shops for the community.

Members will already have had access to the objection letters.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards suggests precautionary conditions to protect occupants of adjoining residential properties from any mechanical services noise and noise from TVs and race commentaries, if Members are minded to approve the application.

## OBSERVATIONS

### Statutory Requirements

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 39: District Centre Core Areas - "Within the areas defined in Appendix 5, development proposals which would result in the loss of Class 1 (retail) or restaurant and café uses at ground floor level will not be acceptable:

- a where they are located within the retail core of the Broughty Ferry and Lochee District Centres and would result in more than one in five units in a single frontage being occupied by uses other than shops, restaurants and cafes; or
- b where they are located within the retail core of other district centres and would result in more than two

in five units in a single frontage being occupied by uses other than shops, restaurants and cafes."

The site lies within the District Centre boundary as defined in Appendix 5 of the Dundee Local Plan Review 2005. The policy restricts the changes from the defined acceptable uses to no more than one in five units in a single frontage. A single frontage is not defined in the Glossary to the Plan but the definition as applied by the Department of Planning and Transportation is:

"The continuous frontal exterior of a building or building group. This should be uninterrupted by streets or by accesses which do not provide entry to the building(s) involved."

It is considered, in the case of the east side of High Street Lochee, that there is a single frontage from Burnside Street in the south to the pedestrian access to the car park, north of No 105. This meets the definition as detailed above.

As the single frontage which contains this application site also contains five other units, all of which are in Class 1 retail uses, the proposed use of the premises for a Class 2 betting office does not breach the terms of the Policy 39 criteria.

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

**Other Material Considerations**

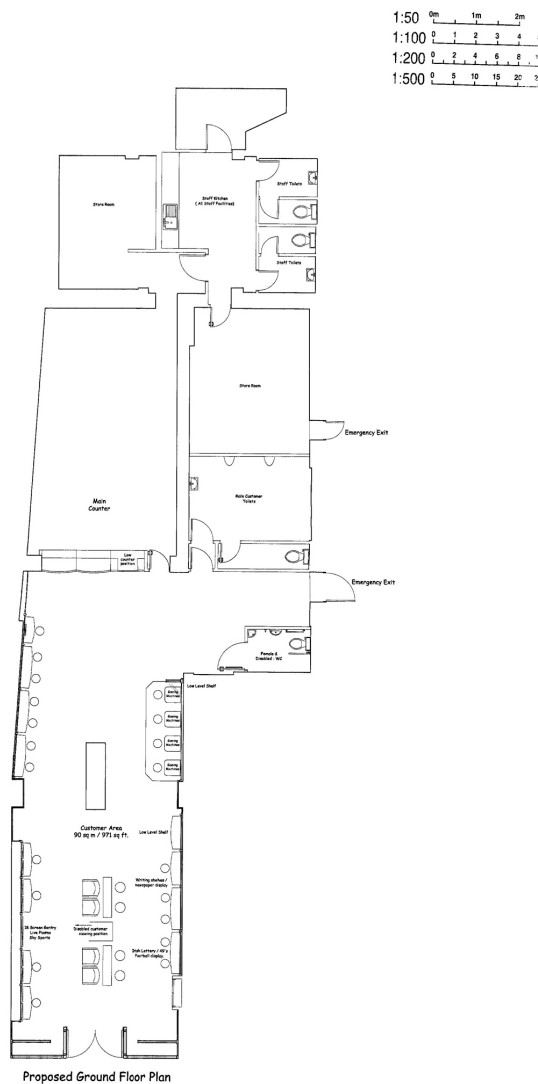
The other material considerations to be taken into account are as follows:

a Previous Planning History

The planning applications noted in the Planning History above reflect the problem of vacant premises and their impact on the vitality and viability of shopping centres.

At 102 High Street, Lochee, (04/00136/COU) the Reporter in the appeal against the Council's refusal for change of use of a shop to a betting office considered that the proposal did not meet the

policy restrictions on such a change of use. However, because of the vacancies within the Highgate



Centre, he considered that it was preferable to have the unit occupied rather than vacant and planning permission for the change of use was granted contrary to the plan policies on 27 January 2005.

Similarly, an application to change the use of a small vacant shop unit at 123 High Street, Lochee (06/01003/FUL) was considered by the Development Quality Committee on 22 January 2007. It is located in the northern part of the High Street where there were already two non-retail uses, a bank and a building society which rendered the proposed change of use contrary to Policy 39. However, the shop was very small, only 32m<sup>2</sup> on ground and basement floors, which significantly reduced its options for retail use and at that time, there were a number of vacancies in the High Street with a

number being unoccupied for some time. It was concluded that the proposed change of use was acceptable, contrary to the policy and was approved on 22 January 2007.

The applicant's agent has used this decision as part of their justification in support of their client's application.

By contrast, an application for planning permission for change of use of a shop unit to a betting office at 209 Brook Street, Broughty Ferry was refused by the Development Quality Committee on 17 December 2007, (07/00982/COU). In this case, the site is also in the heart of the retail core of the District Shopping Centre. The single frontage which was identified was the whole of the north side of Brook Street, from Fort Street to Gray Street. This included several vehicle accesses but they were only to serve individual shops and this was not considered to have broken the single frontage definition. However, within the frontage there was only three non-retail units out of a total of 23. Despite the fact that the proposal met the terms of Policy 39, the Committee was very concerned about the loss of vitality and viability of the shopping centre and the application was refused.

b Colliers CRE "Dundee City Region Retail Study" December 2006

Part of this study included a qualitative assessment of a number of District Centres within Dundee and considered that Lochee served a predominantly local catchment area. In terms of retail categories, convenience goods ie food retailing comprised 12% of the units but this included Tesco. Comparison goods, eg Boots, Woolworths, comprised 26.9% of the total units. The largest category was service goods, including banks, hairdressers and betting offices, which comprise 41.5% of the units. It noted that the main draw to the area was Tesco, located on the periphery of the District Centre with its own parking immediately available.

The study identified that, at that time, 17 units or 19.1% were vacant but it is significant that these were predominantly within

the relatively modern shopping centres on the west side of the High Street and the majority of the core frontage remained occupied.

In terms of commercial trends the Colliers study noted

- there has been a slowdown in retail expenditure in recent times which has had an impact on the demand for retail floorspace;
- there is a decline amongst towns and cities of the independent trader - whilst it is difficult in planning terms to prevent this in Dundee, future policies should recognise their important role in complementing the service provided by the multiple traders.

In relation to the District Centres and in particular to Lochee the Study concluded inter alia:

- while the district centre has reasonable mix of shops for its size, the number of vacancies within the two managed centres is a matter for concern.

At its meeting of 8 January 2007 the Planning & Transportation Committee noted the conclusions of The Dundee City Region Shopping Study (Colliers CRE, December 2006). The study made references to District Centres in general and to the Lochee District Centre in particular the study..... "recognised that certain district centres have suffered a decline. The study highlights the need for further action. This should be based on a partnership approach involving local retailers, developers and the City Council. The preparation of town centre strategies for the declining district centres is advocated as a means of involving the different stakeholders in their revitalisation."

This is the approach that the City Council has adopted in Lochee through the mechanism of the Lochee Physical Regeneration Framework.

c Lochee Physical Regeneration Framework

The proposal should be considered in the context of the Regeneration Framework which sets out a long-

term strategy to guide investment in Lochee for the next decade. The Framework was approved as a material consideration in the determination of planning applications by the Development Quality Committee on 21 January 2008. It sets down an ambitious vision for the District Centre that will deliver a high quality shopping environment and a thriving economy with an appropriate mix of uses.

The Framework proposes the demolition of Weavers Village and progress is being made towards achieving this. In addition, it identifies a long term vision to secure the redevelopment of the Highgate Centre. These proposals seek to address the issue of vacant units in the High Street.

By its strategies and vision outlined in the Lochee Physical Regeneration Framework the City Council recognises the findings of the Collier Study. In terms of SPP8 - Town Centres and Retailing, the council recognises the need for development plan policies to better reflect local circumstances when interpreting national policy. It is considered that the current, local circumstances are being taken into account in the consideration of the weight to be accorded the material considerations in this case.

To these ends action is being taken to address the issues concerning the role of the smaller independent trader and the need for a range of shop unit size and the fact that it is the newer units which are empty. There are only three empty units on the east side of the High Street and one of these is due to the condition of the residential units above. Hence the council's investment in acquisition and early demolition of the Weavers' Village development on the west side of High Street.

The Council has also put in place a budget for the Façade Enhancement Grant Scheme on the east side of the High Street. Funds have been allocated by the Council to develop and implement a strategy of physical public realm improvements to enhance the shopper car park and the pedestrian links to the High Street and the footways in the High Street. These

actions are reflected in the Key Targets set in the Lochee Physical Regeneration Framework, namely:

- redevelop Weavers' Village in line with the short term District Centre plan;
  - redevelop the Highgate Centre in line with the long term District Centre plan;
  - improve shop fronts and physical condition of adjacent properties.
- d Objections

Three objections were received.

The first, from agents acting for another betting office operating in the High Street, considers that the proposal is contrary to Policy 39. It suggests that the "whole of the east side of High Street is the most obvious and sensible measurement for a 'single frontage'. This extended area currently contains three non-retail uses out of a total of 14 units and the change of use proposed would be contrary to Policy 39.

The Council's definition of a 'single frontage' is noted above and it is considered that in terms of that definition, the proposal meets the criteria in the policy. However it is clear that both visually and in terms of function, the east side of the High Street could be considered as a whole. The pedestrian access is very narrow and there is no clear discernable break in the shop frontages as would be typical of a side street or vehicle access. The car park to the rear is not a shoppers' car park which serves the High Street. On that basis, the existing ratio of three non-retail uses within the total of 14 would meet the one in five principle of the Policy 39 which seeks to protect the primary shopping uses within the District Centre. It could therefore be argued that an additional non-retail use would not be acceptable.

The objector states that they wish this application to be dealt with "in terms of the same policy to which we ourselves were refused in Broughty Ferry (Ref 07/00982/COU)". This application has been referred to above.

The objector also notes that there are three other betting offices

operating on the west side of the High Street and that this proposed change of use will detract from the District Centre's vitality and viability. This part of the objection is supported by the findings of the Collier CRE study as detailed above which finds that 41.5% of units are in such service uses.

The other two objections, from local tenants' associations, object to the loss of a shop unit as the centre lacks services such as a greengrocer. The tenants note that the intended closure of Tesco results in a need to provide appropriate shops for the community.

The problems of the District Centre of Lochee are recognised in the Dundee Local Plan Review 2005 and the Lochee Physical Regeneration Framework. However the policies contained within these documents reflect the situation at a given time and changing circumstances can give greater weight to local issues and these can be considered as important material considerations in the determination of planning applications.

It has recently been announced that the large Tesco foodstore and Post Office at the north side of Methven Street are to close and this will have a significant impact on the shopping characteristics of the Lochee District Centre. This closure may indeed offer opportunities for food retailers of various kinds to fill the vacuum left by the Tesco closure. In addition, the Post Office has indicated that it is seeking to maintain a Post Office in Lochee and has invited expressions of interest. However, if there are no suitable units available in the High Street, these opportunities may be lost to the detriment of the community.

The tenants also consider that there are enough betting shops in the High Street, given the social problems in the area. This is not a valid planning objection as planning cannot prevent competition and this may be a matter for licensing.

The planning grounds of the objections are supported.

- e Sustainability Policy 5 - Built Environment seeks to enhance local environments through ongoing regeneration. As noted above, the physical regeneration of Lochee is the subject of policy proposals, funding and direct intervention to seek to achieve the objectives of the Regeneration Frameworks all of which complies with this sustainability policy.

It is considered that the current situation with regard to shopping in the Lochee District Centre is fluid and the impending closure of the large Tesco store and Post Office is likely to change the shopping patterns. The strategies and vision outlined in the Lochee Physical Regeneration Framework based on extensive public consultation and the findings of the Collier Study seek to address the retail issues in the Lochee District Centre. The allocation of funding to improve facades within the High Street reflect these objectives. The Council is concerned that changing the use of this large retail unit, at this time, may lose a valuable opportunity to provide replacement retailing floorspace within the heart of the High Street. Accordingly, it is considered that these factors, when taken together with the objections lodged, constitute strong material considerations which support the refusal of the application contrary to the terms of Policy 39.

### Design

There are no changes proposed to the building.

### CONCLUSION

Planning authorities are required to determine planning applications in accordance with the provisions of the development plan and any material considerations. Each application must be decided on its merits.

It is considered in this particular case, for the reasons given in the foregoing report, that the material considerations of the retail study evidence, the recently approved Lochee Regeneration Framework, the very recently proposed closure of the Tesco foodstore and Post Office and the objections raised, particularly by the community, that the material considerations are of sufficient weight

to support the refusal of this application contrary to the provisions of the development plan.

### RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

- 1 The proposed change of use from a Class 1 retail use to a Class 2 use as a betting office will result in the loss of a large retail unit within the Core Frontage of the Lochee District Centre which is required to support the regeneration aspirations of the Lochee Physical Regeneration Strategy and to ensure that opportunities are available for retail uses to locate within the Core Area given the proposed changes to the retailing capacity in the area.
- 2 The proposed change of use from a Class 1 retail use to a Class 2 betting office use would be detrimental to the vitality and viability of the the Lochee District Centre by virtue of the further reduction of retail uses from this identified retail frontage.