

Public Document Pack



To: Councillor Milne, Convener; and Councillors Boulton and Donnelly

Town House,
ABERDEEN 06 December 2016

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet in Committee Room 2 - Town House on **THURSDAY, 15 DECEMBER 2016 at 2.00 pm.**

FRASER BELL
HEAD OF LEGAL AND DEMOCRATIC SERVICES

BUSINESS

- 1 Procedure Notice (Pages 5 - 6)

COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING

TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS

PLANNING ADVISER - ROBERT FORBES

- 2.1 The Mill, Clinterty - proposed demolition of former mill building and erection of replacement dwelling house - 160426

Members retained the agenda from the Local Review Body meeting on 28 October 2016 at which this Notice of Review was considered. Would Members please take the agenda from that meeting to the above meeting at which consideration of the Notice of Review will reconvene. The agenda from the meeting can be found at:

<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MId=4500&Ver=4>

2.2 Further Written Submissions Requested by the Local Review Body of 28 October 2016 (Pages 7 - 16)

2.3 Determination - Reasons for decision

Members please note that any reasons should be based against Development Plan policies and any other material considerations.

2.4 Consideration of conditions to be attached to the application - if Members are minded to over turn the decision of the case officer

PLANNING ADVISER - ANDREW MILLER

3.1 30-32 Chapel Street - Change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) - 161167

3.2 Delegate Report, Plans and Decision Notice (Pages 17 - 26)

Members please note that the relevant plans can be viewed online:-

Please enter number 161167:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OBNCH2BZGDK00>

3.3 Planning policies referred to in documents submitted

Members, the following planning policies are referred to:-

Aberdeen Local Development Plan 2012

- RT4 – Local Shops
- H2 – Mixed Use Areas

Proposed Aberdeen Local Development Plan 2015

- NC7 – Local Shop Units
- H2 – Mixed Use Areas

3.4 Notice of Review with supporting information submitted by applicant/agent (Pages 27 - 52)

3.5 Determination - Reasons for decision

3.6 Consideration of conditions to be attached

Website Address: www.aberdeencity.gov.uk

Should you require any further information about this agenda, please contact Mark Masson on mmasson@aberdeencity.gov.uk / tel 01224 522989

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LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

PROCEDURE NOTE

GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.
Any representations:
 - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
 - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
 - (a) written submissions;
 - (b) the holding of one or more hearing sessions;
 - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
 - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
 - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
 - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
 - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
 - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions.**
13. The LRB will give clear reasons for its decision in recognition that these will require to be intimated and publicised in full accordance with the regulations.

Environmental Policy team response - planning application, masterplan, and development framework consultations.

PROPOSAL DETAILS

	Enter details in this column
Application / plan name	Proposed demolition of former mill building and erection of replacement dwelling house at the Mill, Little Mill of Clinterty
Application reference number / reference	LRB/P160426
Planning case officer	
Date of request	28 th October 2016
Date response required	11 th November 2016
Date of response	09 th November 2016
EP team (name of responder)	Kevin Wright
Other EP team members or Services consulted by EP	

POLICY AND GUIDANCE

	Enter text in this column
Relevant policy and legislation	
Relevant legislation / regulations	
Relevant LDP policies	NE5 – Trees and Woodlands
Relevant Supplementary Guidance/Technical Advice Note	
Other key references	

COMMENTS

Relevant Policy/guidance or other reference	Comments (including compliance, non-compliance and reasoning)
<p>NE5 – Trees and Woodlands</p>	<p>The proposed development is considered contrary to LDP Policy NE5- Trees and Woodlands. Policy NE5 – Trees and Woodlands makes a presumption against all activities and development that will result in the loss or damage to established trees and woodlands that contribute significantly to local landscape character and local amenity. NE5 notes that buildings and services should be sited so as to minimise adverse impacts on existing trees and requires appropriate measures to be taken for the protection and long term management of existing trees.</p> <p>No tree survey or arboricultural impact assessment was requested as part of the pre-determination submissions. However the Existing Site Survey Layout Plan (DWG: T-01) has been based on a topographical survey that includes the position of existing trees. Based on the above plan and the content of other submissions a broad assessment of likely impact can be made.</p> <p>For reference purposes I have included a plan detailing the approximate location of the four mature trees in closest proximity to the existing building that are considered to be at risk from the proposal. The trees are labelled T1 , T2, T3 and T4 and are referred to below.</p> <p>T1 – Will require to be felled to facilitate the proposed development.</p> <p>T2 – Located on neighbouring ground in close proximity to the Mill. The tree is located on raised ground that is retained by a retaining wall and the rear wall of the existing Mill building. Demolition and excavation in proximity to this tree could result in an adverse impact on the tree. Particularly when considering the proximity of the tree to the top of the retaining wall and that the Mill building, proposed for demolition, would appear to form a fundamental part of the retaining wall</p> <p>Whilst it may be feasible to retain this tree throughout the development phase I would suggest that the tree is at risk of future removal due to its proximity to the proposed development. BS5837:2012 Trees in relation to Design, Demolition and construction notes that the relationship of buildings to large trees can cause apprehension to occupiers of nearby buildings resulting in future pressure to remove the tree. This is a common occurrence in Aberdeen; considering the particularly close relationship of this tree to the proposed development I would suggest it falls into a high risk category in relation to future removal.</p>

T3 & T4 – Are located approximately 16 metres from the existing/proposed building. However I note that the formation of the driveway will take place within around 9 metres. To facilitate the formation of the driveway I note that the excavation of an existing embankment is proposed and that a degree of site levelling will be required. Whilst in standard circumstances this work would, on the whole, be out with the root protection area (RPA) of T3 & 4 it is unlikely to be the case on this site. T3 and T4 have a calculated RPA of around 8 metres; however due to the location of the mill stream rooting will be limited to the east of the stream. In order to give adequate protection the RPA to the east of the tree would need to be increased significantly, as per BS5837:2012 recommendations. It is my opinion that this would bring the RPA in direct conflict with the required changes in ground level required to form the drive way. I would ask you to note that raising the soil level in the RPA of trees by as little as 150mm is as detrimental to the tree as undertaking excavation within the RPA, particularly in relation to mature trees. In addition I note that no landscaping plan has been requested/submitted with the application. It is my presumption that a degree of landscaping to form garden ground will take place. The degree of landscaping required to convert the existing ground into garden ground would likely have a negative impact on the RPA of T3 & T4.

I would note that any further increase in the footprint of the driveway, for example to facilitate the formation of a turning circle, would likely increase the impact on the RPA of T3 & T4

An Arboricultural Impact Assessment, detailed cross sections of proposed changes in ground level and landscaping plans would be required to determine the extent of impact on the RPA of trees T3 & T4

In summary; it is immediately obvious that a single mature tree, T1, will be removed due to the development. I would consider that the short - medium term retention of T2 will be put at risk due to short-term development activity and due to future concerns over proximity and risk. It is more difficult to firmly state the likely impact on T3 & T4 due to the lack of detail available. I would however suggest that from the details made available that there is likely to be a negative impact on the RPA of these trees. Considering the trees existing locations and limited rooting environment I would suggest that even a minor incursion into the RPA would not be acceptable.

As noted above I would consider the proposal to be contrary to LDP Policy NE5- Trees and Woodlands.



Our ref: PCS/149746
Your ref: P160426

If telephoning ask for:
Jessica Fraser

7 November 2016

Allison Swanson
Local Review Body
Legal and Democratic Services
Corporate Governance
Aberdeen City Council
Town House
Broad Street
Aberdeen
AB10 1AQ

By email only to: aswanson@aberdeencity.gov.uk

Dear Ms Swanson

Town and Country Planning (Scotland) Acts
Planning application: P160426
Proposed demolition of former mill building and erection of replacement dwelling house
The Mill Little Mill of Clinterty Kingswells Aberdeen AB15 8RN

Thank you for your consultation email which SEPA received on 28 October 2016 specifically requesting our advice on flood risk. We note that this application was refused due to impacts on the green belt. Prior to this refusal, SEPA were not consulted for advice. However, a Notice of Review has now been lodged and the Local Review Body has requested SEPA's advice on flood risk and drainage.

We have reviewed the documents submitted and we have **no objection** to this planning application on flood risk grounds. Please note the advice provided in section 1 below.

For all other matters, including surface water drainage, this planning application falls below the threshold for developments of this type that we provide site specific advice on. Therefore we have only provided site specific advice on the environmental issues highlighted – flood risk. For all other matters, including surface water drainage, we provide [standing advice](#) applicable to this type of local development. Surface water drainage should be designed in accordance with the CIRIA SUDS manual C753. Please note however that SEPA only considers the water quality issues associated with surface water drainage and therefore does not comment the water quantity aspects of surface water drainage schemes. Details on this are not therefore included within our standing advice. Therefore, we recommend that advice is sought from the Council Flood Prevention Unit on surface water drainage and water quantity/flooding issues.



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

SEPA Aberdeen Office

Inverdee House, Baxter Street
Torry, Aberdeen AB11 9QA
tel 01224 266600 fax 01224 896657

www.sepa.org.uk • customer enquiries 03000 99 66 99

1. Flood risk

- 1.1 The application site (or parts thereof) lies within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map, and may therefore be at medium to high risk of flooding from the Littlemill Burn (For background information please note that the [SEPA Flood Maps](#) have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km² using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess flood risk at the community level and to support planning policy and flood risk management in Scotland).
- 1.2 Scottish Planning Policy states (paragraph 255) that “the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity, and locating development away from functional flood plains and medium to high risk areas.” It further defines (glossary) that “For planning purposes the functional flood plain will generally have a greater than 0.5% (1:200) probability of flooding in any year”. Built development should not therefore take place on the functional flood plain.
- 1.3 We note that the application involves the demolition of an existing steading in order to erect a new dwelling house. In line with SEPA’s [Land use vulnerability guidance](#), the current use as a barn is considered to be a ‘Less Vulnerable Land Use’ whereas the proposed use as a dwelling house is considered to be a ‘Highly Vulnerable Land Use’. As such, there would be an increase in land use vulnerability as a result of the development. We note that the building footprint will essentially remain the same as the existing building but will be situated 1m away from the current south east boundary.
- 1.4 In general, a change of use to a dwelling house within the “Highly Vulnerable” category could significantly increase the overall flood risk, especially in relation to human health and financial impacts. Any proposal for a change of use to a dwelling house should, therefore, be supported by an appropriate level of flood risk assessment.
- 1.5 A topographic survey and cross sections of the burn in relation to the development have been submitted in support of the application. These demonstrate that the bed of the burn ranges between 90mAOD and 91mAOD and that the banks on the side of the development are approximately 92mAOD to 93mAOD. The opposite bank is lower in elevation and as such the preferential flow pathway in the event of out of bank flow would be away from the site.
- 1.6 The finished floor level of the ground floor is 94.44mAOD (Dwg no. GCS 5034 XS-01) therefore the development is situated at least 1m higher than the banks of the watercourses. Additionally the building will be connected to higher ground on one side and the upper floor has a finished floor level of 97.68mAOD (Dwg no. GCS 5034 XS-01) which is at least 4m higher than the banks of the burn.
- 1.7 We are therefore satisfied that the development is unlikely to be at risk of flooding and that there is safe pedestrian access/egress to higher ground in the event of flooding in the area. We therefore have **no objection** on flood risk grounds.
- 1.8 We would highlight however that we consider emergency access and egress to largely be the remit of local authorities. The local authority should therefore ensure that they are satisfied with emergency access and egress issues.

1.9 As with all new development, we would encourage a structure which is constructed to be flood resilient. We would also recommend the use of water resistant materials and forms of construction as appropriate. It is recommended that the Flood Prevention team at the Local Authority should comment on the acceptable level of freeboard for the local area.

2. Other planning matters

2.1 As per the advice above, for all other matters, including surface water drainage, we provide [standing advice](#) applicable to this type of local development.

Regulatory advice for the applicant

3. Regulatory requirements

3.1 Discharges from private waste water treatment systems require authorisation from SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) (as amended). We recommend that the applicant contacts our local regulatory services team on the number given below at their earliest convenience to discuss.

3.2 Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at: Inverdee House, Baxter Street, Torry, Aberdeen, AB11 9QA, Tel: 01224 266600.

If you have any queries relating to this letter, please contact me by telephone on 01224 266698 or e-mail at planning.aberdeen@sepa.org.uk.

Yours sincerely

Jessica Fraser
Planning Officer
Planning Service

ECopy to:

Planning case officer: Dineke Brasier, Aberdeen City Council, DBrasier@aberdeencity.gov.uk

Agent: Baxter Design Company LTD, info@baxterdesigncompany.co.uk

Aberdeen city council flood risk, Miriam Foley, mfoley@aberdeencity.gov.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).

From: Mark Wilkie
Sent: 01 November 2016 11:57
To: Allison Swanson
Cc: Kamran Syed
Subject: RE: Local Review Body - P160426 - The Mill, Little Mill of Clinterty - Notification of Request for Written Submissions

Allison

I refer to the above notification. Further to my memo to Planning, dated 21 April 2016, I note that a revised plan has been submitted (Site Plan, Block Plan & Elevations) with the Block Plan revision dated 18/7/16, which would appear to be in response to my request for 3 car parking spaces (only 2 were proposed initially).

Given that this is close to a derestricted public road, with limited visibility, adequate turning space should be provided, so that all cars could enter and leave the property in forward gear. This would entail providing 6m clearance to the rear of the 3 car parking spaces.

Let me know if you need any further information.

Mark Wilkie BSC PgD CEng MICE
Senior Engineer, Transport Strategy
Communities, Housing & Infrastructure
Aberdeen City Council
Marischal College (Business Hub 4)
Broad Street
ABERDEEN AB10 1AB
Tel. 01224 523482

From: Will Burnish
Sent: 10 November 2016 14:35
To: Allison Swanson
Cc: Miriam Foley; Dineke Brasier; Pa.Flooding
Subject: 160426 Local Body Review

Hi Allison

I have reviewed the site again for flood risk. The site its self is not at flood risk until at least 0.5% flood risk based on current SEPA maps for river flooding. The maps highlight that the site is not a risk of surface water flooding until again 0.5% probability.

With regards the drainage system the Surface water drainage should be designed in accordance with the CIRIA SUDS manual C753 and any discharge into the burn must be at greenfield run off rate.

With regard to the question raised :-

“Confirmation from Aberdeen City Council’s Flooding Team on its position regarding the risk of flooding from/of the proposed development and required drainage”

The Aberdeen City Council flood team have no objection.
Will

**Team Leader Flooding and Coastal
Structures, Flooding and Coastal Engineering**
Communities, Housing & Infrastructure
Aberdeen City Council
Business Hub 11, 2nd Floor West
Marischal College
Broad Street
Aberdeen AB10 1AB

Mobile: [REDACTED]
Tell: 01224 522387

Note to Clients from SF And C Manager Alan Roberston– Will Burnish is a valued and talented member of the Aberdeen City Council. Will has dyslexia which means that his written communications may contain small errors of grammar, syntax and punctuation. As part of our showing of support to our colleague I would therefore request that you discount any errors in punctuation, grammar or syntax as for purposes of speed and efficiency every single email of Will's is not proof read by another person. Thank you for your understanding. This advice note has been provided in conjunction with the British Dyslexia Association www.bdadyslexia.org.uk

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Report of Handling Detailed Planning Permission

161167/DPP: Change of Use from Class 1 (Shop) to Class 2 (Financial, Professional and other services) at 30 Chapel Street, Aberdeen, AB10 1SP.

For: Carlton Rock (Aberdeen) Ltd.

Application Date:	18 August 2016
Officer:	Ross McMahon
Ward:	Mid Stocket/Rosemount
Community Council:	City Centre
Advertisement:	None
Advertised Date:	N/A

RECOMMENDATION: Refuse

SITE DESCRIPTION

The application site is located on the eastern side of Chapel Street, some 75m to the north of Union Street and the Union Street Conservation Area. Relating to a ground floor unit currently in Class 1 (Retail) use, the premises are located within a Mixed Use Area and border the City Centre Business Zone (CCBZ).

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from Class 1 (Shop) to Class 2 (Financial, Professional and other services) of the ground floor commercial unit.

RELEVANT HISTORY

P981305: Change of use from class 1 (retail shop) to class 2 (financial, professional and other services) of the ground floor and basement – Approved Unconditionally (Delegated Powers).

SUPPORTING DOCUMENTS

All drawings and supporting documents listed below can be viewed on the Council's website at www.publicaccess.aberdeencity.gov.uk.

CONSULTATIONS

Consultee	Date	Summary of Comments
Roads DM	19/09/2016	No objection
Flooding	23/08/2016	No comment

Environmental Health	22/08/2016	No response
Community Council	N/A	No response

REPRESENTATIONS

None received.

PLANNING POLICY

Aberdeen Local Development Plan 2012

- RT4 – Local Shops
- H2 – Mixed Use Areas

Proposed Aberdeen Local Development Plan 2015

- NC7 – Local Shop Units
- H2 – Mixed Use Areas

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

Principle

The unit subject to this application falls within use Class 1 (Shops) and is currently in use by retailers. The site lies within a Mixed Use area as identified in the Local Development Plan, and relates to a retail unit outwith the identified retail hierarchy. On that basis, Policy H2 (Mixed Use Areas) and Policy RT4 (Local Shops) are the most applicable policies relating to principle.

Applications for change of use within Mixed Use Areas must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity. Taking into account the nature of this section of Chapel Street – comprising a mix of commercial and residential uses – it is not considered that, in principle, a class 2 use would conflict with the existing residential and/or commercial uses within the immediate vicinity, subject to facilitating adequate amenity to the proposed ground floor unit, which cannot be assessed due to the absence of detailed floor plans and elevations. In this regard it is considered that the proposal complies with Policy H2 of the ALDP.

In terms of local shops out with the retail hierarchy, Policy RT4 states that, proposals for a change of use from retail to another use class will only be allowed if:

1. it can be demonstrated that there is a lack of demand for continued retail use of the premises (applicants must demonstrate what efforts have been made to secure a new retail use since the property became vacant); or
2. the proposed new use caters for a local need; and
3. the alternative use does not conflict with the amenity of the neighbouring area.

The unit is currently occupied by a retailer and no marketing information has been submitted with the application. On that basis it is considered that the application fails on the first element of the policy as it has not been demonstrated that there is a lack of demand for continued retail use of the premises. Furthermore, no information has been submitted to suggest that the proposed new use caters for a local need.

As discussed under Policy H2, it is not considered that a class 2 use would conflict with the amenity of the neighbouring area.

Conclusion

The fact that the premises are currently occupied, located within a prominent location on Chapel Street and currently used for purposes which actively contribute to the vitality of area, are material considerations which weigh against the current proposal. No evidence of marketing of the unit has been provided, and was requested. No information has been provided demonstrating a local need for a Class 2 use in this location.

Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015 and the Reporter has now reported back. The proposed plan constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to comment by the Reporter; and
- the relevance of these matters to the application under consideration.

The Reporters response does not affect policies in a manner that is relevant to this application. In relation to this particular application proposal policies in the Proposed LDP are not materially different from those in the adopted LDP.

Approval to adopt the LDP will be sought at the Full Council meeting of 14 December 2016. The actual adoption date is likely to be around the third week in January 2017.

RECOMMENDATION: Refuse

REASONS FOR RECOMMENDATION

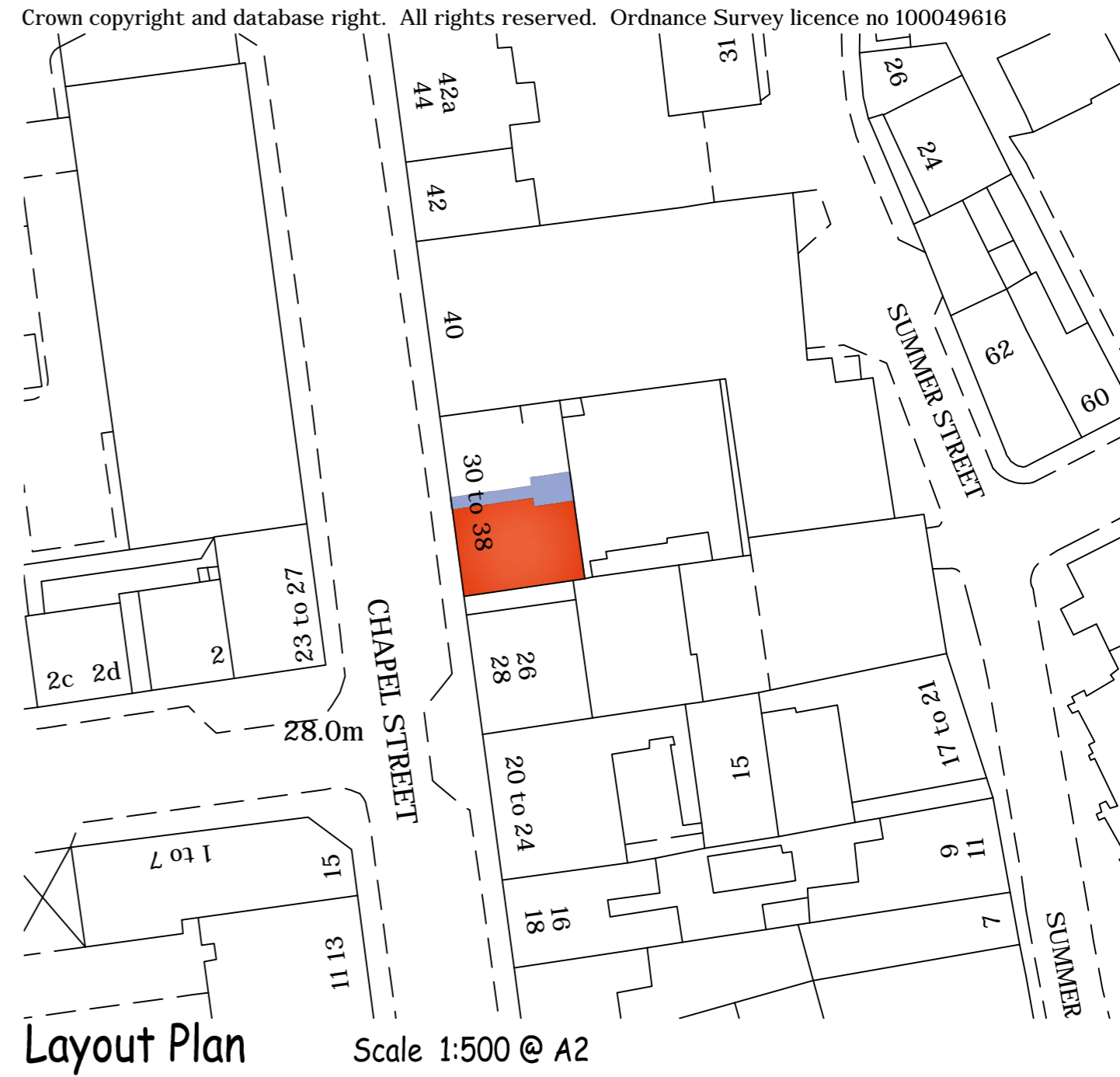
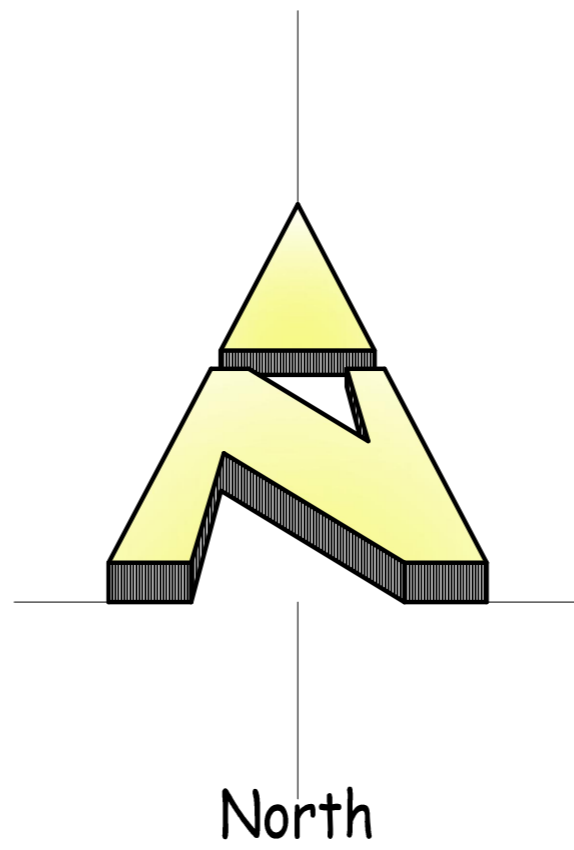
The proposal is considered to generally comply with Policy H2 (Mixed Use Areas), however, fails to comply with Policy RT4 (Local Shops) of the adopted Aberdeen Local Development Plan. The units are in occupation and no evidence has been submitted of their marketing to demonstrate a lack of demand for continued retail use of the premises nor has any information been submitted to demonstrate that the proposed use would cater for a local need. No adequate reasons for setting aside the above policies and guidance have been identified and the other material considerations do not justify approval of the proposal. Approval of this application would result in an undesirable precedent for similar proposals that would cause

further erosion of retail uses. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that would warrant approval of the application.

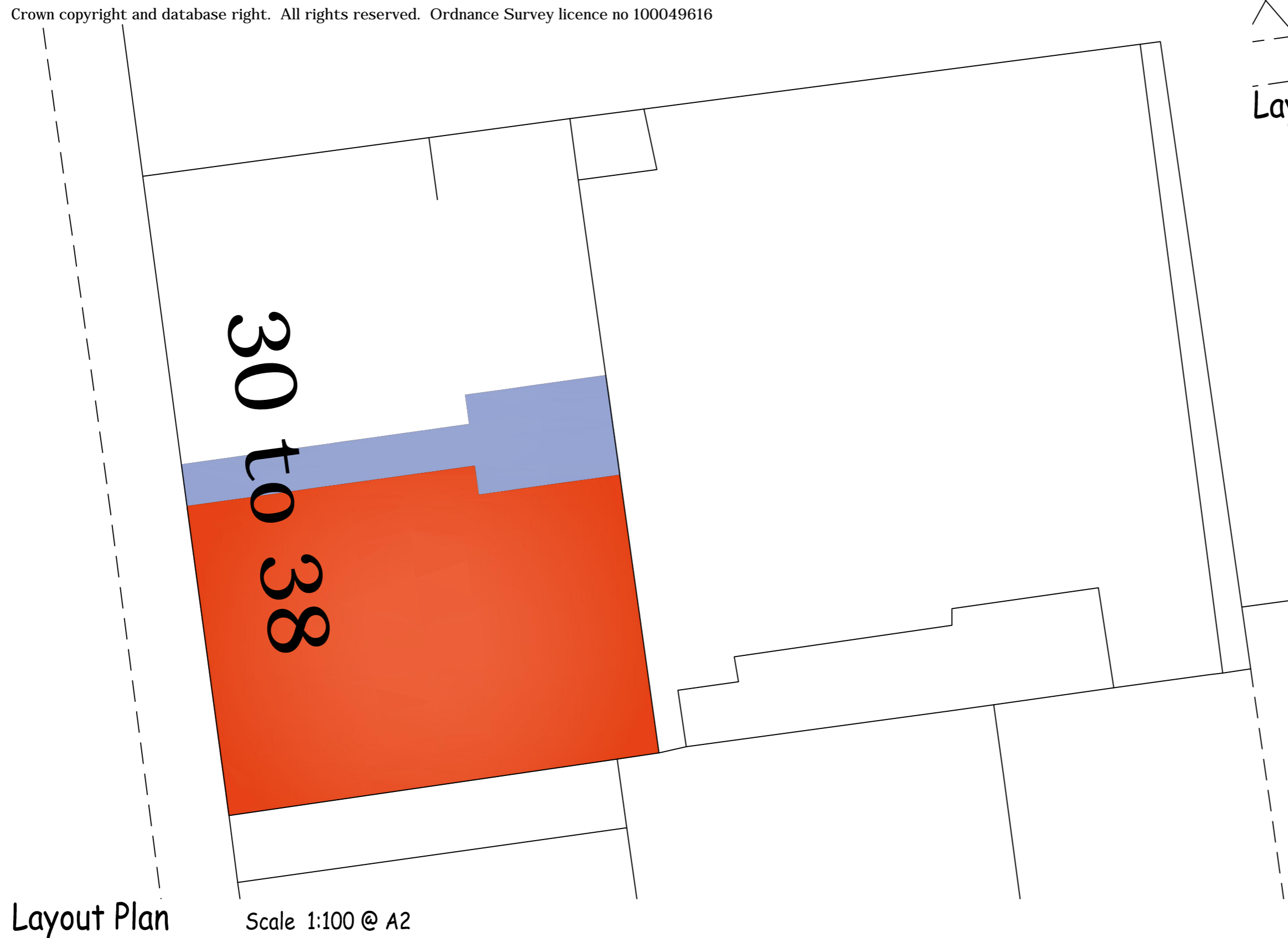
Change of Use from Class 1 (Shop) to Class 2 (Financial, Professional and other Services) - at: 30 Chapel Street, Aberdeen, AB10 1SP



Location Plan Scale 1:1250 @ A2



Layout Plan Scale 1:500 @ A2



Layout Plan Scale 1:100 @ A2

****Application for Change of Use Only - Any changes to layout and Shop front are to be subject to separate applications****

kenmathieson
 ARCHITECTURAL DESIGN & DEVELOPMENT CONSULTANT LTD.
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DOMESTIC, COMMERCIAL & INDUSTRIAL

Client	Carlton Rock Ltd		
Project	Layout Plans at 30 Chapel Street, Aberdeen, AB10 1SP		
Title	Change of use from Class 1 (Shop) to Class 2 (Financial, Professional and other Services)		
Scale	As Shown	Date	Aug. 16
JobNo	1978	DrgNo	001
		Drawn by	SM
		Issue	A

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All Dimensions to be Checked & Confirmed on Site PRIOR to Commencement of any Works or Manufacture of any Elements taking place & any discrepancies to be reported back to Project Co-ordinator for Decision. All Works & Materials to comply fully with all current British Standards (& or Any European Standards if Relevant), Codes of Practice & All necessary Safety Acts.

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DECISION NOTICE

The Town and Country Planning (Scotland) Act 1997

Detailed Planning Permission

Stuart Mathieson
Ken Mathieson Architectural Design Ltd
Mansard House
15 Oldmeldrum Road
Bucksburn
Aberdeen
Scotland
AB21 9AD

on behalf of **Carlton Rock (Aberdeen) Ltd**

With reference to your application validly received on 18 August 2016 for the following development:-

Change of Use from Class 1 (Shop) to Class 2 (Financial, Professional and other services)
at 30 Chapel Street, Aberdeen

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

Drawing Number
001 REV. A

Drawing Type
Location Plan

The reasons on which the Council has based this decision are as follows:-

The proposal is considered to generally comply with Policy H2 (Mixed Use Areas), however, fails to comply with Policy RT4 (Local Shops) of the adopted Aberdeen Local Development Plan. The units are in occupation and no evidence has been submitted of their marketing to demonstrate a lack of demand for continued retail use

PETE LEONARD
DIRECTOR

of the premises nor has any information been submitted to demonstrate that the proposed use would cater for a local need. No adequate reasons for setting aside the above policies and guidance have been identified and the other material considerations do not justify approval of the proposal. Approval of this application would result in an undesirable precedent for similar proposals that would cause further erosion of retail uses. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that would warrant approval of the application.

Date of Signing 20 October 2016



Daniel Lewis
Development Management Manager

IMPORTANT INFORMATION RELATED TO THIS DECISION

DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)

None.

RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at www.eplanning.scot.

Notices of review submitted by post should be sent to Planning and Sustainable Development (address at the top of this decision notice).

SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Marischal college Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100021668-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ken Mathieson Architectural Design Ltd		
Ref. Number:	2098	You must enter a Building Name or Number, or both: *	
First Name: *	Stuart	Building Name:	Mansard House
Last Name: *	Mathieson	Building Number:	15
Telephone Number: *	01224 710357	Address 1 (Street): *	Oldmeldrum Road
Extension Number:		Address 2:	Bucksburn
Mobile Number:		Town/City: *	Aberdeen
Fax Number:		Country: *	Scotland
		Postcode: *	AB21 9AD
Email Address: *	stuart@kenmathieson.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="15"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Summer Street"/>
Company/Organisation	<input type="text" value="Carlton Rock (Aberdeen) Ltd"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB10 1SB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="30-32 CHAPEL STREET"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB10 1SP"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="805950"/>	Easting	<input type="text" value="393457"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of Use from Class 1 (Shop) to Class 2 (Financial, Professional and other services)

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Full statement to be attached to application

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Statement to accompany Notice of Review, Drawing 2098-001-A, Planning Application form, Decision Notice, Delegated Report, Delegated Report for 49-51 Chapel Street, Email dated 15-09-16, Letting Agent Letter dated 16-11-16

Application Details

Please provide details of the application and decision.

What is the application reference number? *

161167

What date was the application submitted to the planning authority? *

09/08/2016

What date was the decision issued by the planning authority? *

20/10/2016

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Stuart Mathieson

Declaration Date: 22/11/2016

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PLANNING APPLICATION (Ref: 161167/DPP) – Change of Use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services).

Carlton Rock (Aberdeen) Ltd, 15 Summer Street, Aberdeen

Request for review of refusal of planning application for the change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) at 30 Chapel Street, Aberdeen.

Statement to accompany the Notice of Review.

Introduction

This Notice of Review has been prepared by Ken Mathieson Architectural Design Ltd on behalf of Carlton Rock (Aberdeen) Ltd to support the request for review under the terms of Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 and Regulation 9 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, against the refusal by Aberdeen City Council to grant planning permission for the change of use of the premises from Class 1 to Class 2 use.

Site

The application site is located on the eastern side of Chapel Street, some 75m to the north of Union Street and the Union Street Conservation Area. The application involves ground floor premises currently occupied by Clan as a charity shop. The property to the south is occupied by Oxfam as another charity shop whilst the unit to the north is occupied by Thistle Alterations providing tailoring, dry cleaning and ironing services. There are flats at first floor and attic level above the application premises.

The premises are located within the City Centre as defined in the Aberdeen Local Development Plan 2012 (LDP) and within a Mixed Use Area (H2). They border the City Centre Business Zone (CCBZ).

Proposal

The application seeks permission for the change of use of the property from Class 1 to Class 2 use. No external alterations are proposed in the application. A Class 2 use is defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997 as use for the provision of–

- (a) financial services;
- (b) professional services; or
- (c) any other services (including use as a betting office);

which it is appropriate to provide in a shopping area and where the services are provided principally to visiting members of the public

Circular 1/1998 which explains the changes brought in by the Use Classes Order advises in paragraph 14 in relation to Class 2 that

'The financial, professional and other services class is designed to allow flexibility within a sector which is continuing to expand and diversify. This class enables planning control to be maintained over proposals involving the conversion of shops for purposes other than for the retail sale of goods, while permitting free interchange within a wide range of service uses which the public expects to find in shopping areas, such as betting shops; the offices of lawyers, accountants and estate agents; health centres and surgeries of doctors, dentists and veterinary surgeons; where the services are provided principally to visiting members of the public'.

The Use Classes Order draws a distinction between office uses where the service is aimed at visiting members of the public rather than other types of office which fall within Class 4. A Class 2 use is therefore entirely appropriate in a shopping area

Relevant History

Planning permission was granted in 1998 under reference P981305 for the change of use of the premises to Class 2 use. The Council's website indicates that permission was granted in 2002 under reference P021241 for replacement windows to office premises at 30 - 38 chapel Street which suggests that the premises were in office use at that time.

In May 2015 planning permission was granted for the change of use of the shop at 49 - 51 Chapel Street which was occupied by Hugh Harrison Menswear to Class 2 office use. A copy of the Report of Handling for that application (Ref P150282) is produced as appendix 1.

The Council through its Local Review Body on 4 July 2014 overturned a decision by the Appointed Officer to refuse permission for the change of use of premises at 13 - 15 Chapel Street from Class1 Shop to Class 4 Offices and granted a temporary permission which expires on 31 December 2016. The Minute of the Review Body can be viewed at

<http://committees.aberdeencity.gov.uk/documents/g2949/Printed%20minutes%2004th-Jul-2014%2010.00%20Local%20Review%20Body%20of%20Aberdeen%20City%20Council.pdf?T=1>

Response to Report of Handling and Reasons for Refusal

A copy of the Report of Handling is produced as appendix 2 and of the Refusal Notice as appendix 3.

The decision notice gives the reasons for refusal as

'The proposal is considered to generally comply with Policy H2 (Mixed Use Areas), however, fails to comply with Policy RT4 (Local Shops) of the adopted Aberdeen

Local Development Plan. The units are in occupation and no evidence has been submitted of their marketing to demonstrate a lack of demand for continued retail use

of the premises nor has any information been submitted to demonstrate that the proposed use would cater for a local need. No adequate reasons for setting aside the above policies and guidance have been identified and the other material considerations do not justify approval of the proposal. Approval of this application would result in an undesirable precedent for similar proposals that would cause further erosion of retail uses. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that would warrant approval of the application'

In addressing these reasons it is necessary to respond to the Report of Handling. It should be noted that whilst the third line of the reason for refusal refers to units for the avoidance of doubt the application involves a single unit.

The Report of Handling refers to the following policies as being of direct relevance to the application

Aberdeen Local Development Plan 2012

RT4 – Local Shops

H2 – Mixed Use Areas

Proposed Aberdeen Local Development Plan 2015

NC7 – Local Shop Units

H2 – Mixed Use Areas

The Report of Handling concludes that the proposal policies in the Proposed LDP are not materially different from those in the adopted LDP. It is agreed that this is the case and therefore this statement will concentrate on the policies set out in the Adopted LDP.

The Report of handling concludes that the proposal meets the requirements of LDP Policy H2 in that the proposed Class 2 use will not cause any conflict with neighbouring uses in this area of mixed commercial and residential uses. It is agreed that this is the case and indeed the decision notice acknowledges this to be the position.

The essential issue then relates to questions of retail policy.

The Appointed Officer has assessed the application in terms of LDP Policy RT4 - Local Shops. There is no clear reason why this policy has been given such prominence in the determination of this application as it was simply not referred to at all in the Report of Handling for the change of use granted in 2015 at 49 - 51 Chapel Street which similarly lies within an H2 Mixed Use area in the LDP and raises precisely the same policy issues as the application which is the subject of this review. There is no clear reason for such an inconsistent approach. This statement will demonstrate that the Appointed Officer is incorrect in applying policy RT 4 to the current proposal.

In terms of retail policy the sites lies within Aberdeen City Centre as defined in the LDP. Policy C1 - City Centre. The LDP promotes the City Centre as a Regional Centre. Development within the City Centre must contribute towards the delivery of the vision for the City Centre as a major regional centre as expressed in the City Centre Development Framework. As such the City Centre is the preferred location for retail, commercial and leisure development serving a city-wide or regional market. Proposals for new retail, commercial, leisure and other city centre uses shall be located in accordance with the sequential approach referred to in the Retailing Section of the LDP and in the relevant Supplementary Guidance: Hierarchy of Retail Centres.

LDP Policy C1 covers the whole of the City Centre which includes the City Centre Business Zone with Union Street at its heart as well as other areas including the H2 Mixed Use Area within which the application site lies.

The Retail Hierarchy which can be viewed at

<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=31820&SID=14394>

refers to the City Centre as the preferred location for all retail development and the primary location for all developments serving a city-wide or regional market. Thus the City Centre for retail policy purposes as set out in the LDP is not limited to the Central Business Zone, but rather extends to the entire City Centre. (The fact that the document refers only to the mapping of the Central Business Zone would appear to be just a statement of what is shown in the LDP rather than having any bearing on policy for as previously described the hierarchy refers to the whole City Centre as being the Regional Centre).

The Appointed Officer has applied Policy RT4 - Local Shops. This policy relates to local shops, not located in any of the identified retail hierarchy, that fulfil an important role in serving the communities around them. Proposals to change these into other uses will only be allowed if:

1. the applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use since the property became vacant); or
2. the proposed new use caters for a local need; and
3. the alternative use does not conflict with the amenity of the neighbouring area.

The application site lies within the City Centre in the LDP and is therefore within the retail hierarchy. It is incorrect for the Appointed Officer to seek to apply this policy .It is instructive to note that in the case of the application at 49 - 51 Chapel Street the Appointed Officer made no reference to retail policy but simply noted that there had been no interest in the property for a retail unit despite it having being marketed for 12 months for that purpose. This lack of interest for retail uses in the immediate area reflects the position that the current owners of 30 Chapel Street are experiencing.

As policy RT 4 does not apply. It follows that the requirement for marketing information required in the Note associated with RT 4 in the LDP which requires in

cases where a lack of demand is a factor applicants should provide evidence that the property has been actively marketed for six months or more and should provide a statement(s) from prospective occupiers explaining their reasons for the property being unsuitable for retail use.

The applicants did, in fact, provide information about the occupation of the property and the lack of interest by other parties in taking over the premises. This is shown in the e-mail dated 15 September 2016 from the applicants' agents to the Planning Officer which is attached as appendix 4. The current occupiers, Clan, intend to terminate their lease and it is understood that the Planning Service was advised verbally as well as by e-mail that the only interest in the property has been for Class 2 use. This reflects the position which has been expressed on a number of occasions in the local media as well as by the Council which has expressed concern about the need to reinvigorate the west end of the City Centre. The use of the premises for a Class 2 use would ensure vitality which would clearly not be the case if the premises were to lie empty. It is surprising that the Appointed Officer did not feel it necessary to refer to this information in the assessment of the application. The proposal meets the aims of LDP Policy C1 City Centre in that it will ensure the continued use of the property consistent with the aims of the policy to support viability and vitality in the area.

The difficult conditions for letting of retail units in the City is described in the letter dated 18 November 2015 from A B Robb, Chartered Surveyors. That letter is attached as appendix 5. The letter explains that for a period in excess of a year parties who might be interested in the property were made aware of its potential availability. This produced a single serious expression of interest which was for a Class 2 office use. There was no interest received for retail use of the property.

There are currently vacant premises on the opposite side of Chapel Street at number 13 – 15 and at the former ASPC premises at 40 Chapel Street. As previously explained the property clearly forms part of the City Centre, its current use provides more than a local service and in seeking to apply a policy relating to local shops the planning officer has misapplied LDP. The assessment has also failed to consider that local residents in the immediate area have ready access for the full range of city centre shopping and services. There a significant number of vacant units on Union Street.

Conclusion

This statement demonstrates that the Appointed Officer has not applied policy correctly nor has he considered all the information submitted with the application. The Appointed Officer has also failed to deal with the application in a way that is consistent with that for another recent application in Chapel Street. The property lies within the City Centre, no expressions of interest have been received for continuing Class 1 retail use and the proposal would ensure that the property is occupied and in doing so will make a contribution to the viability and vitality of the area.

Signed (authorised Officer(s)):

49-51 CHAPEL STREET, ABERDEEN

CHANGE OF USE FROM CLASS 1 RETAIL
TO CLASS 2 FINANCIAL, PROFESSIONAL
AND OTHER SERVICES

For: City Gate Aberdeen Ltd

Application Type : Detailed Planning
Permission

Application Ref. : P150282

Application Date : 23/02/2015

Advert :

Advertised on :

Officer : Sepideh Hajisoltani

Creation Date : 6 May 2015

Ward: Midsocket/Rosemount (B Cormie/J
Laing/F Forsyth)

Community Council: No response received

RECOMMENDATION:

Approve Unconditionally

DESCRIPTION

The application site is located to the western side of Chapel Street. The property is a 3 ½ storey, mid terrace traditional granite property with slated roof. The ground floor and the first floor have been occupied by Hugh Harrison Menswear (Class 1 Retail) with flats above. The property is identified as being within a Mixed Use Area, as allocated within the Aberdeen Local Development Plan (2012).

RELEVANT HISTORY

85/0948- Detailed Planning Application for alterations to flat and shop to form enlarged shop was approved conditionally in July 1985.

85/0949- Advertisement Consent for erection of canopy to shop front was approved with time limit in July 1985.

87/1286- Detailed Planning Application for retention of canopies to shop front was approved with time limit in October 1987.

92/1551- Detailed Planning Application for change of use of the first floor flat to shop was approved unconditionally in September 1995.

92/2260- Detailed Planning Permission for creation of flat within existing loft space tenement was approved unconditionally in December 1995.

PROPOSAL

The application seeks detailed planning permission to change the use of the ground floor and first floor units from class 1 (Retail) to class 2 (Financial, Professional and Other Services).

Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at -

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref.=150282>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

CONSULTATIONS

Roads Development Management- No objection

Additional comments: It is accepted that the development would not have any effect on parking. The parking requirements for this property would reduce due to the new proposal. It should also be noted that the development lies in a city centre and is located in a control parking zone.

Environmental Health – No observations

Communities, Housing and Infrastructure (Flooding) – No observations

Community Council – No comments received

REPRESENTATIONS

None.

PLANNING POLICY

Aberdeen Local Development Plan

Policy H2 - Mixed Use Areas:

Applications for development or change of use within Mixed Use Areas must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity. Where new industrial,

business or commercial uses are permitted, development should not adversely affect the amenity of people living and working in the area.

Proposed Aberdeen Local Development Plan

The following Policy substantively reiterates policies in the adopted local development plan as summarised above:

H2- Mixed Use Areas (*H1- Mixed Use Areas*)

Supplementary Guidance

Transport and Accessibility SG provides guidance on parking standards for all types of development.

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

The proposal is for a change of use from Class 1- Retail to Class 2- Financial, Professional and Other Services. The property is located on Chapel Street and there are small clusters of commercial units (Class 1 and 2) mainly to the south and east of application property. The site is located within an existing mixed use area where Policy H2 (Mixed Use Areas) applies. The policy sets out that any development for a change of use in the mixed use area should not adversely affect the amenity of the people living and working in the area.

In this case, the building is currently classed as a retail unit with a proposed change of use to Class 2 offices. As such, the building is already non-residential. It could be argued that a Class 2 office has less potential for nuisance due to noise and disturbance than a Class 1 Retail use.

The proposal is generally compliant with policy H2 as it would be unlikely to have a detrimental impact on the mixed use character of neighbouring properties. Consideration should also be given to the fact that there has been no demand for the property over a period of 12 months of marketing as a retail unit.

The application site is located in a control parking zone in the city centre and the proposed change of use is going to reduce the parking requirements. It is concluded that the proposal will not have any effect on parking.

The existing frontage is predominantly glazed. No details of alterations for the proposed change of use have been provided in support of the application.

Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved at the meeting of the Communities, Housing and Infrastructure Committee of 28 October 2014. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to public consultation through the Main Issues Report; and
- the level of objection raised in relation these matters as part of the Main Issues Report; and
- the relevance of these matters to the application under consideration

The foregoing can only be assessed on a case by case basis. In relation to this particular application, the policies in the Proposed ALDP substantively reiterate those in the adopted local development plan and the proposal is acceptable in terms of both plans for the reasons previously given.

RECOMMENDATION

Approve Unconditionally

REASONS FOR RECOMMENDATION

It is considered that the proposed change of use would not result in any conflict with the adjacent land use, and is consistent with the aims of Policy H2 (Mixed Use Areas) of the Aberdeen Local Development Plan (ALDP).

Report of Handling Detailed Planning Permission

161167/DPP: Change of Use from Class 1 (Shop) to Class 2 (Financial, Professional and other services) at 30 Chapel Street, Aberdeen, AB10 1SP.

For: Carlton Rock (Aberdeen) Ltd.

Application Date:	18 August 2016
Officer:	Ross McMahon
Ward:	Mid Stocket/Rosemount
Community Council:	City Centre
Advertisement:	None
Advertised Date:	N/A

RECOMMENDATION: Refuse

SITE DESCRIPTION

The application site is located on the eastern side of Chapel Street, some 75m to the north of Union Street and the Union Street Conservation Area. Relating to a ground floor unit currently in Class 1 (Retail) use, the premises are located within a Mixed Use Area and border the City Centre Business Zone (CCBZ).

DESCRIPTION OF PROPOSAL

Planning permission is sought for a change of use from Class 1 (Shop) to Class 2 (Financial, Professional and other services) of the ground floor commercial unit.

RELEVANT HISTORY

P981305: Change of use from class 1 (retail shop) to class 2 (financial, professional and other services) of the ground floor and basement – Approved Unconditionally (Delegated Powers).

SUPPORTING DOCUMENTS

All drawings and supporting documents listed below can be viewed on the Council's website at www.publicaccess.aberdeencity.gov.uk.

CONSULTATIONS

Consultee	Date	Summary of Comments
Roads DM	19/09/2016	No objection
Flooding	23/08/2016	No comment

Environmental Health	22/08/2016	No response
Community Council	N/A	No response

REPRESENTATIONS

None received.

PLANNING POLICY

Aberdeen Local Development Plan 2012

- RT4 – Local Shops
- H2 – Mixed Use Areas

Proposed Aberdeen Local Development Plan 2015

- NC7 – Local Shop Units
- H2 – Mixed Use Areas

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

Principle

The unit subject to this application falls within use Class 1 (Shops) and is currently in use by retailers. The site lies within a Mixed Use area as identified in the Local Development Plan, and relates to a retail unit outwith the identified retail hierarchy. On that basis, Policy H2 (Mixed Use Areas) and Policy RT4 (Local Shops) are the most applicable policies relating to principle.

Applications for change of use within Mixed Use Areas must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity. Taking into account the nature of this section of Chapel Street – comprising a mix of commercial and residential uses – it is not considered that, in principle, a class 2 use would conflict with the existing residential and/or commercial uses within the immediate vicinity, subject to facilitating adequate amenity to the proposed ground floor unit, which cannot be assessed due to the absence of detailed floor plans and elevations. In this regard it is considered that the proposal complies with Policy H2 of the ALDP.

In terms of local shops out with the retail hierarchy, Policy RT4 states that, proposals for a change of use from retail to another use class will only be allowed if:

1. it can be demonstrated that there is a lack of demand for continued retail use of the premises (applicants must demonstrate what efforts have been made to secure a new retail use since the property became vacant); or
2. the proposed new use caters for a local need; and
3. the alternative use does not conflict with the amenity of the neighbouring area.

The unit is currently occupied by a retailer and no marketing information has been submitted with the application. On that basis it is considered that the application fails on the first element of the policy as it has not been demonstrated that there is a lack of demand for continued retail use of the premises. Furthermore, no information has been submitted to suggest that the proposed new use caters for a local need.

As discussed under Policy H2, it is not considered that a class 2 use would conflict with the amenity of the neighbouring area.

Conclusion

The fact that the premises are currently occupied, located within a prominent location on Chapel Street and currently used for purposes which actively contribute to the vitality of area, are material considerations which weigh against the current proposal. No evidence of marketing of the unit has been provided, and was requested. No information has been provided demonstrating a local need for a Class 2 use in this location.

Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015 and the Reporter has now reported back. The proposed plan constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to comment by the Reporter; and
- the relevance of these matters to the application under consideration.

The Reporters response does not affect policies in a manner that is relevant to this application. In relation to this particular application proposal policies in the Proposed LDP are not materially different from those in the adopted LDP.

Approval to adopt the LDP will be sought at the Full Council meeting of 14 December 2016. The actual adoption date is likely to be around the third week in January 2017.

RECOMMENDATION: Refuse

REASONS FOR RECOMMENDATION

The proposal is considered to generally comply with Policy H2 (Mixed Use Areas), however, fails to comply with Policy RT4 (Local Shops) of the adopted Aberdeen Local Development Plan. The units are in occupation and no evidence has been submitted of their marketing to demonstrate a lack of demand for continued retail use of the premises nor has any information been submitted to demonstrate that the proposed use would cater for a local need. No adequate reasons for setting aside the above policies and guidance have been identified and the other material considerations do not justify approval of the proposal. Approval of this application would result in an undesirable precedent for similar proposals that would cause

further erosion of retail uses. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that would warrant approval of the application.

DECISION NOTICE

The Town and Country Planning (Scotland) Act 1997

Detailed Planning Permission

Stuart Mathieson
Ken Mathieson Architectural Design Ltd
Mansard House
15 Oldmeldrum Road
Bucksburn
Aberdeen
Scotland
AB21 9AD

on behalf of **Carlton Rock (Aberdeen) Ltd**

With reference to your application validly received on 18 August 2016 for the following development:-

Change of Use from Class 1 (Shop) to Class 2 (Financial, Professional and other services)
at 30 Chapel Street, Aberdeen

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

Drawing Number
001 REV. A

Drawing Type
Location Plan

The reasons on which the Council has based this decision are as follows:-

The proposal is considered to generally comply with Policy H2 (Mixed Use Areas), however, fails to comply with Policy RT4 (Local Shops) of the adopted Aberdeen Local Development Plan. The units are in occupation and no evidence has been submitted of their marketing to demonstrate a lack of demand for continued retail use

PETE LEONARD
DIRECTOR

of the premises nor has any information been submitted to demonstrate that the proposed use would cater for a local need. No adequate reasons for setting aside the above policies and guidance have been identified and the other material considerations do not justify approval of the proposal. Approval of this application would result in an undesirable precedent for similar proposals that would cause further erosion of retail uses. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that would warrant approval of the application.

Date of Signing 20 October 2016



Daniel Lewis
Development Management Manager

IMPORTANT INFORMATION RELATED TO THIS DECISION

DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)

None.

RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at www.eplanning.scot.

Notices of review submitted by post should be sent to Planning and Sustainable Development (address at the top of this decision notice).

SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Stuart

From: Stuart <stuart@kenmathieson.com>
Sent: 15 September 2016 13:50
To: Ross McMahon (RMcMahon@aberdeencity.gov.uk)
Cc: alan massie
Subject: 2098- Application Ref: 161167/DPP - 30 Chapel Street, Aberdeen

Afternoon Ross,

The decline in retail in the city centre of Aberdeen is well documented and an almost daily repost of this is highlighted within the local press.

The current charity shop is coming out of their lease and no interest has been made by any other retail business has been made on the property.

To date the only expressed interest has been from a local MSP looking for office premises in the City Centre.

There has already been approval for a change of use to this property from Class 1 to Class 2 on the 19th October 1998 (981305).

Can you confirm if there has been a change of policy since the last approval of change of use from class 1 to class 2 which would mean this could not be granted again?

If you choose to recommend refusal of this application you will be adding to the growing number of empty buildings in the City Centre which the Local Councillors in all parties are vocally trying to avoid and rectify which will be highlighted as an example to the MSP who has expressed interest in the premises of the Planning Department choosing a negative approach to keeping business active in a declining City Centre.

I would appreciate if you could please revisit this application and give me a call to discuss before writing your recommendation.

Kind Regards

STUART MATHIESON

on behalf of

KEN MATHIESON ARCHITECTURAL DESIGN Ltd.

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